

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

SL-9874

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UNITED STATES OF AMERICA,

Plaintiff,

- against -

CITYGAS GASOLINE CORPORATION,
FOSTER REALTY CORPORATION,
9702-9706 FOSTER AVENUE LLC,
FOSTER OPERATING CORPORATION,
14TH AVENUE REALTY CORPORATION,
10 B. STREET REALTY CORPORATION,
GARY'S AUTO SERVICE STATION, INC.,
4090 BOSTON ROAD CORPORATION,
4090 BOSTON ROAD LLC,
CONNOR GAS N.Y. INC. (a/k/a
CONNOR GAS (N.Y.) INC.),
4090 N.Y. CORPORATION,
117-01 SPRINGFIELD BLVD, LLC,
SPRINGFIELD OPERATING CORPORATION,
117-01 N.Y. CORP.,
LEGGETT LAND LIMITED,
1081 N.Y. CORPORATION,
TIJUANA ENTERPRISES, INC.,
ONE MORE GASOLINE COMPANY INC.,
2800 BRUCKNER BOULEVARD LLC,
E.D. FUELS, LLC,
QUINCY GAS N.Y., INC. (a/k/a
QUINCY GAS (N.Y.) INC.),
ENKIDO GASOLINE CORPORATION,
SIDNEY ESIKOFF FAMILY TRUST,
141-50 UNION TURNPIKE LLC,
SATIN VENTURES, INC.,
83-10 ASTORIA BOULEVARD LLC,
EDEN EQUITIES INC.,
SLINGSHOT GASOLINE, INC.,
PENN-FULTON MANAGEMENT, INC,
FULTON GAS N.Y., INC. (a/k/a
FULTON GAS (N.Y.) INC.),
FLUSHING 168 CORPORATION,
1981 N.Y. CORPORATION,
RICHARD FINKELSTEIN,

Defendants.

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Plaintiff UNITED STATES OF AMERICA, by its attorney

ROSLYNN R. MAUSKOPF, United States Attorney for the Eastern

**FIRST AMENDED
COMPLAINT**

Civil Action
No. 03-6374
(Amon, J.)
(Gold, M.J.)

District of New York, Sandra L. Levy, Assistant United States Attorney, of counsel, by the authority of the Attorney General and on behalf of the United States Environmental Protection Agency ("EPA"), for its complaint against defendants herein alleges as follows:

NATURE OF THE ACTION

1. This is a civil action brought at the request of a delagatee of the Administrator of EPA pursuant to section 9006 of the Resource Conservation and Recovery Act, as amended, ("RCRA"), 42 U.S.C. § 6991e, for civil penalties and injunctive relief against the defendants (1) CITYGAS CORPORATION; (2) FOSTER REALTY CORPORATION; (3) 9702-9706 FOSTER AVENUE LLC; (4) FOSTER OPERATING CORPORATION; (5) 14TH AVENUE REALTY CORPORATION; (6) 10 B. STREET REALTY CORPORATION; (7) GARY'S AUTO SERVICE STATION, INC.; (8) 4090 BOSTON ROAD CORPORATION; (9) 4090 BOSTON ROAD LLC; (10) CONNOR GAS N.Y. INC. (a/k/a CONNOR GAS (N.Y.) INC.); (11) 4090 N.Y. CORPORATION; (12) 117-01 SPRINGFIELD BLVD, LLC; (13) SPRINGFIELD OPERATING CORPORATION; (14) 117-01 N.Y. CORP.; (15) LEGGETT LAND LIMITED; (16) 1081 N.Y. CORPORATION; (17) TIJUANA ENTERPRISES, INC.; (18) ONE MORE GASOLINE COMPANY INC.; (19) 2800 BRUCKNER BOULEVARD LLC; (20) E.D. FUELS, LLC; (21) QUINCY GAS N.Y., INC. (a/k/a QUINCY GAS (N.Y.) INC.), (22) ENKIDO GASOLINE CORPORATION; (23) SIDNEY ESIKOFF FAMILY TRUST; (24) 141-50 UNION

TURNPIKE LLC; (25) SATIN VENTURES, INC.; (26) 83-10 ASTORIA BOULEVARD LLC; (27) EDEN EQUITIES INC.; (28) SLINGSHOT GASOLINE, INC.; (29) PENN-FULTON MANAGEMENT, INC.; (30) FULTON GAS N.Y., INC. (a/k/a FULTON GAS (N.Y.) INC.); (31) FLUSHING 168 CORPORATION; (32) 1981 N.Y. CORPORATION; and (33) RICHARD FINKELSTEIN (collectively, the "defendants"). This action seeks redress for Defendants' violations of RCRA requirements regarding underground storage tanks ("USTs") at twelve facilities, which are present and former automobile fueling stations and repair shops.

2. The defendants are "owners" and/or "operators" of these facilities, as defined by 42 U.S.C. §§ 6991(3) and (4).

3. The defendants have failed to meet one or more of the requirements mandated by RCRA, i.e., requirements to (1) upgrade gasoline and waste oil USTs, (2) ensure that the USTs are structurally sound before installing cathodic protection, (3) provide a method of release detection for UST systems or to maintain records of compliance with release detection requirements, (4) temporarily close gasoline UST systems, (5) permanently close gasoline UST systems, (6) report suspected release/unusual operating conditions, (7) maintain records of the operation of cathodic protection, and (8) respond to requests for information regarding UST systems.

JURISDICTION AND VENUE

4. This court has jurisdiction over the subject matter of this action pursuant to section 9006(a)(1) of RCRA, 42 U.S.C. § 6991e(a)(1), and 28 U.S.C. §§ 1331, 1345, and 1355. Venue is proper in this district pursuant to section 9006(a) of RCRA, 42 U.S.C. § 6991e(a), and 28 U.S.C. §§ 1391 and 1395 because the violations occurred within this district and/or the defendants reside in this district.

FACILITIES

5. At times relevant herein, the defendants owned and/or operated USTs at one or more of the following twelve facilities: (1) 9702 Foster Avenue, Brooklyn, New York; (2) 3715 14th Avenue, Brooklyn, New York; (3) 10 Bond Street, New York, New York; (4) 4090 Boston Road, Bronx, New York; (5) 117-01 Springfield Boulevard, Queens, New York; (6) 1081 Leggett Avenue, Bronx, New York; (7) 83-10 Astoria Boulevard, Queens, New York; (8) 1508 Bushwick Avenue, Brooklyn, New York; (9) 2800 Bruckner Boulevard, Bronx, New York; (10) 141-50 Union Turnpike, Queens, New York; (11) 2642-66 Fulton Street, Brooklyn, New York, and (12) 1981 Ocean Avenue, Brooklyn, New York.

DEFENDANTS

A. Citygas Gasoline Corporation

6. Citygas Gasoline Corporation ("Citygas") was

incorporated in the State of New York on or about October 4, 1990, with its principal place of business at 276 North Henry Street, Brooklyn, New York.

7. Citygas was dissolved by proclamation on or about December 27, 2000.

8. Gurmeet Singh Dhinsa ("Dhinsa") was formerly the President, Principal and Chairman of Citygas.

9. Dhinsa, through his ownership of Citygas and as the principal of numerous real estate and operating corporations with corporate addresses at 276 North Henry Street, Brooklyn, New York, owned and operated numerous automobile fueling stations containing USTs.

10. Upon information and belief, several of the real estate and operating corporations with corporate addresses at 276 North Henry Street, Brooklyn, New York, in which Dhinsa was the principal failed to comply with obligations established by the State of New York to remain a corporation in good standing. This led to the dissolution by proclamation, between 1999 and 2003, of several corporations that owned and/or operated USTs at the facilities at issue.

11. Citygas owned and/or operated USTs at the following facilities: (1) 9702 Foster Avenue, Brooklyn, New York; (2) 3715 14th Avenue, Brooklyn, New York; (3) 10 Bond Street, New York,

New York; (4) 4090 Boston Road, Bronx, New York; (5) 117-01 Springfield Boulevard, Queens, New York; (6) 1081 Leggett Avenue, Bronx, New York; (7) 83-10 Astoria Boulevard, Queens, New York; (8) 1508 Bushwick Avenue, Brooklyn, New York; (9) 2800 Bruckner Boulevard, Bronx, New York; (10) 141-50 Union Turnpike, Queens, New York; (11) 2642-66 Fulton Street, Brooklyn, New York; and (12) 1981 Ocean Avenue, Brooklyn, New York.

12. Citygas facilities have been the subject of investigation and administrative action by EPA for environmental violations, including UST violations and failure to maintain vapor recovery systems as required by the Clean Air Act, by the State of New York for environmental violations, and by the City of New York for consumer affairs violations.

13. In a criminal prosecution captioned United States of America v. Gurmeet Singh Dhinsa, 97-CR-672 (ERK) (E.D.N.Y.), Dhinsa was found guilty after trial by jury of various federal criminal charges including racketeering, conspiracy, murder, obstruction of justice, mail fraud and kidnapping.

14. In connection with the foregoing criminal case, Dhinsa was sentenced to life imprisonment on or about October 15, 1999.

15. In connection with the foregoing criminal case, Dhinsa entered into a Consent Order with the United States of America on or about October 15, 2000, which provided for the payment of more

than \$1.6 million in restitution and \$500,000 in fines.

16. In furtherance of paying the restitution and fines, the Consent Order directed Dhinsa to sell various properties and relinquish leasehold interests of automobile fueling stations containing USTs that Dhinsa owned and/or operated, or individuals and/or entities under his control, owned and/or operated.

17. The Consent Order did not address UST compliance issues.

18. In the Consent Order, Dhinsa admitted that he or individuals and/or entities under his direction or control were the owners of the following facilities: 9702 Foster Avenue, Brooklyn, New York, and 3715 14th Avenue, Brooklyn, New York. Dhinsa further stated in the Consent Order that there was no legal impediment to the sale of the foregoing properties.

19. In the Consent Order, Dhinsa admitted that he or individuals and/or entities under his control were the owners or lessees of the following facilities: 1081 Leggett Avenue, Bronx, New York; 83-10 Astoria Boulevard, Queens, New York; 2800 Bruckner Boulevard, Bronx, New York; 141-50 Union Turnpike, Queens, New York; 2642-66 Fulton Street, Brooklyn, New York; and 1981 Ocean Avenue, Brooklyn, New York. Dhinsa further stated in the Consent Order that there was no legal impediment to the termination or assignment of these leases.

20. Mariam Azadalli ("Azadalli") is an individual residing in the Eastern District of New York.

21. Azadalli is the wife of Gurmeet Singh Dhinsa.

22. Following Dhinsa's imprisonment, Azadalli assumed management and control of Citygas.

23. The Consent Order entered into by Dhinsa in U.S. v. Dhinsa, provided that Azadalli continue to lease and control the following facilities: 1081 Leggett Avenue, Bronx, New York; 83-10 Astoria Boulevard, Queens, New York; 2800 Bruckner Boulevard, Bronx, New York; 141-50 Union Turnpike, Queens, New York; 2642-66 Fulton Street, Brooklyn, New York; and 1981 Ocean Avenue, Brooklyn, New York.

24. The Consent Order executed by Dhinsa further provides that Azadalli retain the net income for the facilities she continues to operate.

25. Despite the dissolution of Citygas, Azadalli retained control and management responsibilities over the facilities formerly under Citygas.

26. Azadalli is named as the emergency contact on the New York State Department of Environmental Conservation Petroleum Bulk Storage ("PBS") certificates of the following facilities: 9702 Foster Avenue, Brooklyn, New York; 3715 14th Avenue, Brooklyn, New York; 4090 Boston Road, Brooklyn, New York; 1081

Leggett Avenue, Bronx, New York; 83-10 Astoria Boulevard, Queens, New York; 2800 Bruckner Boulevard, Bronx, New York; and 1981 Ocean Avenue, Brooklyn, New York.

27. Azadalli confirmed receipt orally and in writing of EPA's Citygas Section 9005 request for information concerning USTs at Citygas facilities, including the twelve at issue in the instant complaint.

28. In an Amendment to the Consent Order executed in November 2002, Dhinsa transferred the titles of, inter alia, the following properties to Limited Liability Companies ("LLCs") in which Azadalli is the sole owner and member: (a) 9702 Foster Avenue was transferred from Foster Realty Corporation to 9702-9706 Foster Avenue LLC; (b) 4090 Boston Road was transferred from 4090 Boston Road Corporation to 4090 Boston Road LLC; (c) 10 Bond Street was transferred from 10 B. Street Realty Corporation to Bond Street LLC; and (d) 117-01 Springfield Boulevard was transferred from 117-01 Springfield Blvd. Realty Corporation to 117-01 Springfield Blvd LLC.

29. Despite the dissolution of Citygas, tenants at the facility at 3715 14th Avenue, Brooklyn, advised EPA inspectors in January 2002 that they continue to pay rent to Citygas.

30. Despite the dissolution of Citygas, tenants at the facilities at 1081 Leggett Avenue, Bronx, told EPA inspectors in

January 2002 that they contact the Citygas controller in cases of emergency.

31. Despite the dissolution of Citygas, EPA inspectors observed Citygas signs posted at the facilities located at 4090 Boston Road, Bronx, and 1981 Ocean Avenue, Brooklyn, in January 2002.

B. Foster Realty Corporation

32. Foster Realty Corporation was a corporation organized and existing under the laws of the State of New York, with a corporate address at 276 North Henry Street, Brooklyn, New York 11222, Citygas' headquarters. Foster Realty Corporation was dissolved by proclamation on or about June 26, 2002.

33. Foster Realty Corporation owns or owned, at relevant times herein, twelve USTs at 9702 Foster Avenue, Brooklyn, New York ("the 9702 Foster Avenue facility").

34. Upon information and belief, Foster Realty owns, or owned at relevant times herein, the USTs at the 9702 Foster Avenue facility under the direction of Citygas.

C. 9702-9706 Foster Avenue LLC

35. 9702-9706 Foster Avenue LLC is a limited liability corporation organized and existing under the laws of the State of New York, with a corporate address at Melvin Berfond, Esq., 277 Broadway, New York, New York, attorney for Citygas in this

action. The sole owner and member of the LLC is Mariam Azadalli.

36. 9702-9706 Foster Avenue LLC owns, or owned at relevant times herein, twelve USTs at the 9702 Foster Avenue facility.

37. Upon information and belief, 9702-9706 Foster Avenue LLC owns, or owned at relevant times herein, the USTs at the 9702 Foster Avenue facility under the direction of Citygas.

D. Foster Operating Corporation

38. Foster Operating Corporation was a corporation existing under the laws of the State of New York, with a corporate address at 276 North Henry Street, Brooklyn, New York 11222, Citygas' headquarters. Foster Operating Corporation was dissolved by proclamation on or about June 26, 2002.

39. Foster Operating Corporation owns and/or operates, or owned and/or operated, at relevant times herein, twelve USTs at the 9702 Foster Avenue facility.

40. Upon information and belief, Foster Operating Corporation owns and/or operates, or owned and/or operated, at relevant times herein, the USTs at the 9702 Foster Avenue facility under the direction of Citygas.

E. 14th Avenue Realty Corporation

41. 14th Avenue Realty Corporation was a corporation existing under the laws of the State of New York, with a corporate address at 276 North Henry Street, Brooklyn, New York

11222, Citygas' headquarters. 14th Avenue Realty Corporation was dissolved by proclamation on or about June 26, 2002.

42. 14th Avenue Realty Corporation owns, or owned at relevant times herein, eleven USTs at 3715 14th Avenue, Brooklyn, New York ("the 14th Avenue facility").

43. Upon information and belief, 14th Avenue Realty owns, or owned at relevant times herein, the USTs at the 3715 14th Avenue facility under the direction of Citygas.

F. 10 B. Street Realty Corporation

44. 10 B. Street Realty Corporation is a corporation organized and existing under the laws of the State of New York, with a corporate address at 276 North Henry Street, Brooklyn, New York 11222, Citygas' headquarters.

45. 10 B. Street Realty Corporation owns or owned, at relevant times herein, three USTs at 10 Bond Street, New York, New York ("the 10 Bond Street facility").

46. Upon information and belief, 10 B. Street Realty Corporation owns, or owned at relevant times herein, three USTs at the 10 Bond Street facility under the direction of Citygas.

G. Gary's Auto Service Station, Inc.

47. Gary's Auto Service Station, Inc. is a corporation organized and existing under the laws of the State of New York, with a corporate address at 10 Bond Street, New York, New York

10012.

48. Gary's Auto Service Station, Inc. owns and/or operates, or owned and/or operated, at relevant times herein, three USTs at the 10 Bond Street facility.

49. Gary Milman represented to EPA that he had been the President of Gary's Auto Service Station, Inc. since 1997.

H. 4090 Boston Road Corporation

50. 4090 Boston Road Corporation is a corporation organized and existing under the laws of the State of New York, with a corporate address at 276 North Henry Street, Brooklyn, New York 11222, Citygas' headquarters.

51. 4090 Boston Road Corporation owns, or owned at relevant times herein, five USTs at 4090 Boston Road, Bronx, New York ("the 4090 Boston Road facility").

52. Upon information and belief, 4090 Boston Road Corporation owns, or owned at relevant times herein, the USTs at the 4090 Boston Road facility under the direction of Citygas.

I. 4090 Boston Road LLC

53. 4090 Boston Road LLC is a limited liability corporation organized and existing under the laws of the State of New York, with a corporate address at Melvin Berfond, Esq., 277 Broadway, New York, New York, attorney for Citygas in this action. The sole owner and member of the LLC is Mariam Azadalli.

54. 4090 Boston Road LLC owns, or owned at relevant times herein, five USTs at the 4090 Boston Road facility.

55. Upon information and belief, 4090 Boston Road LLC owns, or owned at relevant times herein, the USTs at the 4090 Boston Road facility under the direction of Citygas.

J. Connor Gas N.Y., Inc.

56. Connor Gas N.Y., Inc. was a corporation organized and existing under the laws of the State of New York with a corporate address at 276 North Henry Street, Brooklyn, New York 11222, Citygas' headquarters. Connor Gas N.Y. Inc. was dissolved by proclamation on or about June 26, 2002.

57. Connor Gas N.Y., Inc. owns and/or operates, or owned and/or operated, at relevant times herein, the five USTs at the 4090 Boston Road facility.

58. Upon information and belief, Connor Gas N.Y., Inc. owns and/or operates, or owned and/or operated, at relevant times herein, the USTs at the 4090 Boston Road facility under the direction of Citygas.

K. 4090 N.Y. Corporation

59. 4090 N.Y. Corporation is a corporation organized and existing under the laws of the State of New York with a corporate address at 276 North Henry Street, Brooklyn, New York 11222, Citygas' headquarters.

60. 4090 N.Y. Corporation owns and/or operates, or owned and/or operated at relevant times herein, the five USTs at the 4090 Boston Road facility.

61. Upon information and belief, 4090 N.Y. Corporation owns and/or operates, or owned and/or operated at relevant times herein, the USTs at the 4090 Boston Road facility under the direction of Citygas.

L. 117-01 Springfield Blvd, LLC

62. 117-01 Springfield Blvd, LLC is a limited liability corporation organized and existing under the laws of the State of New York, with a corporate address at Melvin Berfond, Esq., 277 Broadway, New York, New York, attorney for Citygas in this action. The sole owner and member of the LLC is Mariam Azadalli.

63. 117-01 Springfield Blvd, LLC owns, or owned at relevant times herein, five USTs at 117-01 Springfield Boulevard, Cambria Heights, New York ("the 117-01 Springfield Boulevard facility").

64. Upon information and belief, 117-01 Springfield Blvd, LLC owns, or owned at relevant times herein, the USTs at the 117-01 Springfield Boulevard facility under the direction of Citygas.

M. Springfield Operating Corporation

65. Springfield Operating Corporation was a corporation organized and existing under the laws of the State of New York with a corporate address at 276 North Henry Street, Brooklyn, New

York 11222, Citygas' headquarters. Springfield Operating Corporation was dissolved by proclamation on or about June 26, 2002.

66. Springfield Operating Corporation owns and/or operates, or owned and/or operated, at relevant times herein, five USTs at the 117-01 Springfield Boulevard facility.

67. Upon information and belief, Springfield Operating Corporation owns and/or operates, or owned and/or operated, at relevant times herein, the USTs at the 117-01 Springfield Boulevard facility under the direction of Citygas.

N. 117-01 N.Y. Corp.

68. 117-01 N.Y. Corp. is a corporation organized and existing under the laws of the State of New York, with a corporate address at 276 North Henry Street, Brooklyn, New York 11222, Citygas' headquarters.

69. 117-01 N.Y. Corp. owns and/or operates, or owned and/or operated, at relevant times herein, five USTs at the 117-01 Springfield Boulevard facility.

70. Upon information and belief, 117-01 N.Y. Corp. owns and/or operates, or owned and/or operated at relevant times herein, the USTs at the 117-01 Springfield Boulevard facility under the direction of Citygas.

O. Leggett Land Ltd.

71. Leggett Land Ltd. is a corporation organized and existing under the laws of the State of New York with a corporate address at 744 Walnut Street, Paramus, New Jersey 07652.

72. Leggett Land Ltd. owns, or owned at relevant times herein, four USTs at 1081 Leggett Avenue, Bronx, New York. ("the 1081 Leggett Avenue facility").

P. 1081 N.Y. Corporation

73. 1081 N.Y. Corporation is a corporation organized and existing under the laws of the State of New York with a corporate address at 276 North Henry Street, Brooklyn, New York, Citygas' headquarters.

74. 1081 N.Y. Corporation owns and/or operates, or owned and/or operated, at relevant times herein, the four USTs at the 1081 Leggett Avenue facility.

75. Upon information and belief, 1081 N.Y. Corporation owns and/or operates, or owned and/or operated, at relevant times herein, the USTs at the 1081 Leggett Avenue facility under the direction of Citygas.

Q. Tijuana Enterprises, Inc.

76. Tijuana Enterprises, Inc. is a corporation organized and existing under the laws of the State of New York with a corporate address at 305 Avenue U, Brooklyn, New York 11223.

77. Tijuana Enterprises, Inc. owns, or owned at all

relevant times herein, five USTs at 1508 Bushwick Avenue, Brooklyn, New York ("the 1508 Bushwick Avenue facility").

78. Upon information and belief, Richard Finkelstein is, or was at relevant times herein, the principal shareholder of Tijuana Enterprises, Inc.

R. One More Gasoline Company Inc.

79. One More Gasoline Company Inc. is a corporation organized and existing under the laws of the State of New York with a corporate address at 176 Woodbury Road, Suite 2, Hicksville, New York.

80. One More Gasoline Company Inc. owns and/or operates, or owned and/or operated at relevant times herein, five USTs at the 1508 Bushwick Avenue facility.

81. Upon information and belief, Richard Finkelstein is, or was at relevant times herein, the Chief Executive Officer and sole shareholder of One More Gasoline Company Inc.

S. 2800 Bruckner Boulevard LLC

82. 2800 Bruckner Boulevard LLC is a limited liability corporation organized and existing under the laws of the State of New York with a corporate address at 130 Horace Harding Boulevard, Great Neck, New York.

83. 2800 Bruckner Boulevard LLC owned at relevant times herein, eleven USTs at 2800 Bruckner Boulevard, Bronx, New York

("the 2800 Bruckner Boulevard facility").

84. Upon information and belief, Jane Perlow, a trustee of the Sidney Esikoff Family Trust, is, or was at relevant times herein, the manager of 2800 Bruckner Boulevard LLC.

T. E.D. Fuels LLC

85. E.D. Fuels LLC is a limited liability corporation organized and existing under the laws of the State of New York, with a corporate address at 176 Woodbury Road, Suite 2, Hicksville, New York.

86. E.D. Fuels LLC owned and/or operated, at relevant times herein, five USTs at the 2800 Bruckner Boulevard facility.

87. Upon information and belief, Richard Finkelstein is, or was at relevant times herein, a managing member of E.D. Fuels LLC.

U. Quincy Gas N.Y., Inc.

88. Quincy Gas N.Y., Inc. was a corporation organized and existing under the laws of the State of New York with a corporate address at 276 North Henry Street, Brooklyn, New York 11222, Citygas' headquarters. Quincy Gas N.Y. Inc. was dissolved by proclamation on or about June 25, 2003.

89. Quincy Gas N.Y., Inc. owned and/or operated, at relevant times herein, eleven USTs at 2800 Bruckner Boulevard, Bronx, New York ("the 2800 Bruckner Boulevard facility").

90. Upon information and belief, Quincy Gas N.Y., Inc. owned and/or operated at relevant times herein, the USTs at the 2800 Bruckner Boulevard facility under the direction of Citygas.

V. Enkido Gasoline Corporation

91. Enkido Gasoline Corporation is a corporation organized and existing under the laws of the State of New York, with a corporate address at 176 Woodbury Road, Suite 2, Hicksville, New York 11801.

92. Enkido Gasoline Corporation owns and/or operates, or owned and/or operated at relevant times herein, eleven USTs at the 2800 Bruckner Boulevard facility.

93. Upon information and belief, Richard Finkelstein is, or was, at relevant times herein, the sole shareholder, President, Chairman and Principal of Enkido Gasoline Corporation.

W. Sidney Esikoff Family Trust

94. The Sidney Esikoff Family Trust is an organization which maintains a corporate address at 141-40 Union Turnpike, Flushing, New York. Jane Perlow is, or was at relevant times herein, the trustee of the Sidney Esikoff Family Trust.

95. The Sidney Esikoff Family Trust owns, or owned at relevant times herein, five USTs at 141-50 Union Turnpike, Flushing, New York (the "141-50 Union Turnpike facility").

X. 141-50 Union Turnpike LLC

96. 141-50 Union Turnpike LLC is a limited liability corporation organized and existing under the laws of the State of New York, with a corporate address c/o Jane Perlow, 2 Cornell Place, Great Neck, New York.

97. 141-50 Union Turnpike LLC owns or owned, at relevant times herein, five USTs at the 141-50 Union Turnpike facility.

98. Upon information and belief, Jane Perlow, the trustee of the Sidney Esikoff Family Trust, is, or was at relevant times herein, a manager/trustee of 141-50 Union Turnpike LLC.

Y. Satin Ventures Inc.

99. Satin Ventures Inc. is a corporation organized and existing under the laws of the State of New York, with a corporate address at 176 Woodbury Road, Suite 2, Hicksville, New York.

100. Satin Ventures Inc. owns and/or operates, or owned and/or operated, at relevant times herein, five USTs at the 141-50 Union Turnpike facility.

101. Satin Ventures Inc. owned and/or operated, at relevant times herein, eleven USTs at the 2800 Bruckner Boulevard facility.

102. Upon information and belief, Richard Finkelstein is, or was at relevant times herein, the President of Satin Ventures Inc.

Z. 83-10 Astoria Boulevard LLC

103. 83-10 Astoria Boulevard LLC is a limited liability corporation organized and existing under the laws of the State of New York, with a corporate address at 130 Horace Harding Boulevard, Great Neck, New York.

104. 83-10 Astoria Boulevard LLC owned at relevant times herein, eleven USTs at 83-10 Astoria Boulevard, Jackson Heights, New York (the "83-10 Astoria Boulevard facility").

105. Upon information and belief, Jane Perlow, the trustee of the Sidney Esikoff Family Trust, is, or was at relevant times herein, a manager of 83-10 Astoria LLC.

AA. Eden Equities Inc.

106. Eden Equities Inc. is a corporation organized and existing under the laws of the State of New York, with a corporate address at 176 Woodbury Road, Suite 2, Hicksville, New York.

107. Eden Equities Inc. owns and/or operates, or owned and/or operated, at relevant times herein, eleven USTs at the 83-10 Astoria Boulevard facility.

108. Upon information and belief, Richard Finkelstein is, or was at relevant times herein, vice president of Eden Equities Inc.

Z. Slingshot Gasoline, Inc.

109. Slingshot Gasoline, Inc. is a corporation organized and existing under the laws of the State of New York, with a corporate address at 176 Woodbury Road, Suite 2, Hicksville, New York 11801.

110. Slingshot Gasoline, Inc. owns and/or operates, or owned and/or operated at relevant times herein, five USTs at the 141-50 Union Turnpike facility.

111. Upon information and belief, Richard Finkelstein is the sole shareholder of Slingshot Gasoline, Inc.

CC. Penn-Fulton Management, Inc.

112. Penn-Fulton Management, Inc. is a corporation organized and existing under the laws of the State of New York, with a corporate address at 339 Travis Avenue, Staten Island, New York 10314.

113. Penn-Fulton Management, Inc. owns, or owned at relevant times herein, four USTs at 2642-66 Fulton Street, Brooklyn, New York ("the 2642-66 Fulton Street facility").

DD. Fulton Gas N.Y., Inc.

114. Fulton Gas N.Y., Inc. was a corporation organized and existing under the laws of the State of New York, with a corporate address at 276 North Henry Street, Brooklyn, New York 11222, Citygas' headquarters. Fulton Gas N.Y., Inc. was dissolved by proclamation on or about June 26, 2002.

115. Fulton Gas N.Y., Inc. owns and/or operates, or owned and/or operated, at relevant times herein, the four USTs at the 2642-66 Fulton Street facility.

116. Upon information and belief, Fulton Gas N.Y., Inc. owns and/or operates, or owned and/or operated, at relevant times herein, the USTs at the 2642-66 Fulton Street facility under the direction of Citygas.

EE. Flushing 168 Corporation

117. Flushing 168 Corporation was a corporation organized and existing under the laws of the State of New York, with a corporate address at 276 North Henry Street, Brooklyn, New York 11222, Citygas' headquarters. Flushing 168 Corporation was dissolved by proclamation on or about June 27, 2001.

118. Flushing 168 Corporation owns and/or operates, or owned and/or operated, at relevant times herein, the four USTs at the 2642-66 Fulton Street facility.

119. Upon information and belief, Flushing 168 Corporation owns and/or operates, or owned and/or operated, at relevant times herein, the USTs at the 2642-66 Fulton Street facility under the direction of Citygas.

FF. 1981 N.Y. Corp.

120. 1981 N.Y. Corp. is a corporation organized and existing under the laws of the State of New York, with a corporate address at 276 North Henry Street, Brooklyn, New York 11222, Citygas' headquarters.

121. Upon information and belief, 1981 N.Y. Corp. owns and/or operates, or owned and/or operated, at relevant times herein, three USTs at the facility located at 1981 Ocean Avenue, Brooklyn, New York (the "1981 Ocean Avenue facility").

GG. Richard Finkelstein

122. Richard Finkelstein ("Finkelstein") is an individual residing in the Eastern District of New York.

123. Finkelstein, and/or entities with which he is associated, owns and/or operates, or owned and/or operated at relevant times herein, the USTs at the facilities located at 83-10 Astoria Boulevard, 1508 Bushwick Avenue, 2800 Bruckner BoUlevard, and 141-50 Union Turnpike.

RCRA AND THE APPLICABLE REGULATIONS

124. RCRA established a comprehensive federal regulatory program for the management of hazardous wastes. 42 U.S.C. § 6901 et seq.

125. On November 8, 1984, as part of the Hazardous and Solid Waste Amendments ("HSWA") of 1984 to RCRA, Congress created

subtitle I of RCRA, Regulation of Underground Storage Tanks.

This subtitle I was created in response to the growing number of groundwater contamination incidents caused by substances leaking from USTs.

126. Section 9003(a) of RCRA, 42 U.S.C. § 6991b(a), directs the Administrator of EPA to promulgate release detection, prevention, and corrective action regulations applicable to all owners and operators of underground storage tanks, as may be necessary to protect human health and the environment.

127. "Owner" is defined in section 9001(3) of RCRA, 42 U.S.C. § 6991(3) as,

(A) in the case of an underground storage tank in use on November 8, 1984, or brought into use after that date, any person who owns an underground storage tank used for the storage, use, or dispensing of regulated substances, and

(B) in the case of any underground storage tank in use before November 8, 1984, but no longer in use on November 8, 1984, any person who owned such tank immediately before the discontinuation of its use.

128. "Operator" is defined in section 9001(4) of RCRA, 42 U.S.C. § 6991(4), as "any person in control of, or having responsibility for, the daily operation of the underground storage tank."

129. The definition of "Person," pursuant to section 1004(15) of RCRA, 42 U.S.C. § 6903(15), includes, but is not

limited to, an individual, trust, corporation or partnership.

130. "Underground Storage Tank" is defined in section 9001(1) of RCRA, 42 U.S.C. § 6991(1), in part, as, any one or combination of tanks (including underground pipes connected thereto) which is used to contain an accumulation of regulated substances.

131. "Underground Storage Tank System" is defined in 40 C.F.R. Part 280, Subpart A, § 280.12 as an underground storage tank, connected underground piping, underground ancillary equipment, and containment system, if any.

132. "Regulated Substance" is defined in section 9001(2)(B) of RCRA, 42 U.S.C. § 6991(2)(B), in part, as "petroleum." Petroleum includes gasoline and used motor oil.

133. Pursuant to section 9003(c) of RCRA, 42 U.S.C. § 6991b(c), the regulations promulgated by the Administrator of EPA,

shall include, but not be limited to . . . (1) requirements for maintaining a leak detection system, an inventory control system together with tank testing, or a comparable system or method designed to identify releases in a manner consistent with the protection of human health and the environment; (2) requirements for maintaining records of any monitoring or leak detection system . . . (5) requirements for the closure of tanks to prevent future releases of regulated substances into the environment.

134. The regulations promulgated by the Administrator of EPA

pursuant to subtitle I of RCRA are codified at 40 C.F.R. Parts 280 and 281.

135. Pursuant to 40 C.F.R. Part 280, Subpart A, § 280.10(a), "[t]he requirements of this part apply to all owners and operators of an UST system . . ."

136. The terms "Underground Storage Tank," "UST system," "Regulated Substance," "Operator," "Owner" and "Person" are defined in 40 C.F.R. Part 280, Subpart A, § 280.12 in a manner consistent with the statutory definitions.

137. The regulations setting forth the requirements for owner/operator cooperation with requests for document submission pursuant to Section 9005 of Subtitle I of RCRA are codified at 40 C.F.R., Subpart C, § 280.34.

138. The regulations setting forth the requirements governing the upgrade of waste oil USTs and the installation of cathodic protection are codified at 40 C.F.R. Part 280, Subpart B, §§ 280.20, 280.21.

139. The regulations setting forth the requirements for release detection are codified at 40 C.F.R. Part 280, Subpart D, §§ 280.40-280.45.

140. The regulations setting forth the requirements for temporary or permanent closure of an underground storage tank are codified at 40 C.F.R. Part 280, Subpart G, §§ 280.70-280.74.

141. The regulations setting forth the requirements for reporting suspect release and/or unusual operating conditions are codified at 40 C.F.R. Part 280, Subpart E, §§ 280.50-280.52.

142. The regulations setting forth the general record keeping requirements of the operation of cathodic protection are codified at 40 C.F.R. Part 280, Subpart C, §§ 280.31, 280.34.

143. Section 9002(a)(1) of RCRA, 42 U.S.C. § 6991a(a)(1), requires each owner of an underground storage tank to notify the designated state or local agency "of the existence of such tank, specifying the age, size, type, location, and uses of such tank."

144. Section 9003(c)(1) of RCRA, 42 U.S.C. § 6991b(c)(1), requires the EPA Administrator to promulgate regulations applicable to owners and operators of USTs, including requirements for maintaining leak detection systems, inventory control systems together with tank testing, or a comparable system or method to identify releases.

145. Sections 9003 and 9003(c)(5) of RCRA, 42 U.S.C. §§ 6991b and 6991b(c)(5), require the EPA Administrator to promulgate regulations applicable to owners and operators of USTs, including requirements for the closure of tanks to prevent future releases of regulated substances into the environment.

146. Section 9003(c)(2) of RCRA, 42 U.S.C. § 6991b(c)(2), requires the EPA Administrator to promulgate regulations

applicable to owners and operators of USTs, including requirements for maintaining records of any monitoring or leak detection system or inventory control system or tank testing or comparable system.

147. Section 9005(a) of RCRA, 42 U.S.C. § 6991d(a), requires any owner or operator of a UST to furnish to EPA information relating to such tanks, their associated equipment and contents, and to conduct monitoring and testing.

148. Section 9006 of RCRA, 42 U.S.C. § 6991e, authorizes the EPA Administrator to commence a civil action for appropriate relief, including a permanent or temporary injunction, when a person has violated or is in violation of subtitle I of RCRA or its implementing regulations.

149. Pursuant to Section 9006(d) of RCRA, 42 U.S.C. § 6991e(d),

(1) Any owner who knowingly fails to notify or submits false information pursuant to section 6991a(a) of this title shall be subject to a civil penalty not to exceed \$10,000 for each tank for which notification is not given or false information is submitted.

(2) Any owner or operator of an underground storage tank who fails to comply with (A) any requirement or standard promulgated by the Administrator under section 6991b . . . shall be subject to a civil penalty not to exceed \$10,000 for each tank for each day of violation.

150. Under the Federal Civil Penalty Inflation

Adjustment Act of 1990, as amended by the Debt Improvement Act of 1996, EPA is required to adjust its penalties for inflation on a periodic basis. EPA has issued the Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19, which provides that violations which occur on or after January 31, 1997 are subject to a new statutory maximum penalty of \$11,000.

DEFENDANTS' STATUS UNDER RCRA

151. Each of the defendants identified in paragraphs 6 through 150 has been an "owner" of underground storage tanks within the meaning of section 9001(3) of RCRA, 42 U.S.C. § 6991(3), and 40 C.F.R. § 280.12, and/or "operator" within the meaning of section 9001(4) of RCRA, 42 U.S.C. § 6991(4), and 40 C.F.R. § 280.12 at times relevant to the violations alleged herein.

152. Each defendant identified in paragraphs 6 through 150 is a "person" within the meaning of Section 1004(15) of RCRA, 42 U.S.C. § 6903(15), and 40 C.F.R. § 280.12.

153. Pursuant to sections 9006(a) and (d) of RCRA, 42 U.S.C. §§ 6991e(a) and (d), each defendant is subject to injunctive relief and is liable for civil penalties based upon the claims for relief identified below.

FACILITY OPERATIONS

A. 9702 Foster Avenue, Brooklyn, New York

154. The 9702 Foster Avenue facility formerly operated as an automobile fueling station.

155. According to a July 2000 New York State Department of Environmental Conservation Petroleum Bulk Storage ("PBS") form, the fueling station has twelve gasoline USTs, including eleven 550-gallon USTs and a single 4000-gallon UST, all installed in 1998.

156. EPA inspected the facility on February 17, 1999, May 25, 1999, August 3, 2000, and January 29, 2002.

157. During EPA's inspections on February 17, 1999 and May 25, 2000, the twelve USTs had not been replaced or upgraded, despite being in operation at the time of the inspections.

158. During EPA's inspections on February 17, 1999 and May 25, 2000, no spill containment or overfill protection was observed on the USTs and at least one of the fillports did not have a cap.

159. No evidence of the in-tank monitoring system listed on the facility's PBS form was found at the facility during the foregoing inspections.

160. The results of the foregoing inspections demonstrated that release detection requirements were not being met while the

USTs were in service.

161. During the February 17, 1999 inspection, the attendant on duty told the inspector that only one tank in each of the two manifolded systems is measured daily. The attendant stated that the readings from this single tank are multiplied by the number of manifolded tanks.

162. During EPA's inspections on August 3, 2000 and January 29, 2002, the station was deserted and boarded up, with cars parked on site.

163. Pursuant to 40 C.F.R. §§ 280.70-.74, The USTs at the 9702 Foster Avenue facility were required to be temporarily closed by no later than November 3, 2000, and permanently closed no later than August 3, 2001.

164. Upon information and belief, the USTs at the 9702 Foster Avenue facility have not yet been closed.

165. During the January 29, 2002 inspection, the USTs were still in place and were not temporarily or permanently closed. There was no evidence of spill or overfill equipment. No evidence of tank upgrades was observed.

166. No records of cathodic protection were available for inspection on site during any of the foregoing inspections, and none of the employees interviewed by EPA inspectors had knowledge of cathodic protection.

B. 3715 14th Avenue, Brooklyn, New York

167. The 3715 14th Avenue facility formerly operated as an automobile fueling station and automobile repair shop.

168. According to a November 1998 PBS form, the facility has eleven USTs, including eight 550-gallon USTs, two 4000-gallon USTs, and a single 275-gallon waste oil UST, all installed in 1998.

169. EPA inspected the 3715 14th Avenue facility on February 17, 1999, May 25, 1999, August 2, 2000, and January 29, 2002.

170. During EPA's inspections on February 17, 1999 and May 25, 1999, fillports were observed to be open and no spill containment or overfill protection was observed.

171. Review of the facility's log sheets during the February 17, 1999 inspection indicated that release detection was being measured to the nearest ½ inch. This demonstrated a failure to comply with release detection requirements set forth at 40 C.F.R. § 280.43, which require measuring to the nearest 1/8 inch.

172. During EPA's inspections on August 2, 2000 and January 29, 2002, the automobile fueling station was not in service, but the automobile repair shop was in operation.

173. During the August 2, 2000 inspection, EPA inspectors were told by facility employees that the USTs were taken out of service in January 2000.

174. Pursuant to 40 C.F.R. §§ 280.70-.74, the USTs at the 3715 14th Avenue facility were required to be temporarily closed no later than April 1, 2000, and permanently closed no later than January 1, 2001.

175. During the August 2, 2000 and January 29, 2002 inspections, no spill basins or overfill alarms were observed, and there was no evidence that the USTs were otherwise upgraded. The USTs had not been removed and the fillports were in place, but not sealed.

176. As of January 29, 2002, the USTs had no spill basins, no overfill alarms and they were not sealed.

177. As of January 29, 2002, the USTs were not temporarily or permanently closed.

178. Upon information and belief, the USTs at the 3715 14th Avenue facility were removed in or about January 2004.

179. No records of cathodic protection were available for inspection on site at any of the foregoing inspections and none of the facility employees interviewed by EPA inspectors had knowledge of cathodic protection.

C. 10 Bond Street, New York, New York

180. The 10 Bond Street facility formerly operated as an automobile fueling station and repair shop.

181. According to an October 1999 PBS form, the facility has

three 2000-gallon gasoline USTs that were installed in 1991.

182. Gary Milman represented to EPA that the USTs were taken out of service on June 27, 2000.

183. EPA inspected this facility on August 11, 1999, February 11, 2000, and January 28, 2002.

184. During EPA's inspection on August 11, 1999, no release detection was observed.

185. During EPA's inspection on February 11, 2000, no records of cathodic protection were available for review and none of the employees interviewed by EPA inspectors were aware of cathodic protection.

186. On February 11, 2000, no evidence of release detection was observed and no records of release detection were available for inspection at the facility.

187. During the February 11, 2000 inspection, Gary Milman represented to EPA inspectors that the USTs were monitored via interstitial tank monitoring. Milman claimed that he had hired a company called Gasoline Installations to check the leak detection monthly.

188. In a March 23, 2000, telephone conversation with a representative of Gasoline Installations, EPA inspectors learned that Gasoline Installations did not monitor leak detection at 10 Bond Street, but came to the facility monthly only to collect

payment for tank installation.

189. As of EPA's inspection on January 28, 2002, the automobile fueling station and automobile repair shop were closed. A wooden barricade was present around the perimeter of the property and EPA could not gain access to the facility.

190. As of EPA's inspection on January 28, 2002, the USTs appeared to be in place, but did not appear to be temporarily or permanently closed.

D. 4090 Boston Road, Bronx, New York

191. The 4090 Boston Road facility serves as an automobile fueling station.

192. According to an April 2001 PBS form, the facility has five 4,000-gallon gasoline USTs that were installed in 1971.

193. EPA inspected this facility on April 6, 1999 and January 28, 2002.

194. During EPA's inspection on April 6, 1999, a representative of Petroleum Star Corporation, of 276 North Henry Street, Brooklyn, New York, Citygas' headquarters, was at the 4090 Boston Road facility. The representative of Petroleum Star Corporation told EPA inspectors that Petroleum Star intended to install spill basins, a sacrificial anodes cathodic protection system, a Veeder-Root monitoring system for leak detection and inventory control, and overfill protection at the facility.

195. During the inspection on April 6, 1999, EPA inspectors reviewed leak detection data which indicated that release detection was being measured to the nearest 1/4 inch. This demonstrated a failure to comply with release detection requirements set forth at 40 C.F.R. § 280.43, which require measuring to the nearest 1/8 inch.

196. Records maintained by MG Consulting, a certified corrosion expert, indicate that cathodic protection was installed at the 4090 Boston Road facility in May 1999.

197. MG Consulting records further demonstrate that no integrity assessment was performed prior to the installation of cathodic protection in May 1999.

198. At the time of EPA's inspection on January 28, 2002, the attendant at the facility did not know anything about release detection monitoring, spill and overfill prevention systems, tank installation dates or tank construction material.

199. During the foregoing inspections, no records of operation and maintenance of cathodic protection were available for inspection at the facility and none of the employees interviewed by EPA inspectors had knowledge of cathodic protection.

E. 117-01 Springfield Boulevard, Queens, New York

200. The 117-01 Springfield Boulevard facility serves as an

automobile fueling station.

201. According to a November 1997 PBS form, the facility has five USTs including four 4,000-gallon USTs and a single 550-gallon UST for waste oil that were installed in 1997.

202. This facility was inspected by EPA on October 28, 1999, January 28, 2002, and July 8, 2003.

203. During EPA's inspection on October 28, 1999, there were no records at the facility regarding upgrade of the tanks, installation of cathodic protection or leak detection.

204. On October 28, 1999, the facility's Veeder-Root release detection monitoring system was out of tape paper, had an illuminated warning light and "printer error" and "fuel alarm high pressure" messages. No records concerning this occurrence were filed with NYSDEC.

205. During EPA's inspection on January 28, 2002, the attendant at the facility did not know about UST release detection and no records of release detection were available on site.

206. On January 28, 2002, catchment basins were observed on all four gasoline fillports, and an overfill alarm and a Veeder-Root TLS-350 release detection monitoring system were observed.

207. During EPA's inspection on July 8, 2003, a Veeder-Root TLS-350 system was again observed at the facility. The Automatic

Tank Gauging system was sounding an alarm and indicating that one sensor was out.

208. At the July 2003 inspection, the attendant indicated that the Veeder-Root system is used for inventory management and a "leak check formula" is used for leak detection.

209. A leak history report was generated at the July 2003 inspection from the Automatic Tank Gauging system's memory which indicated that no leak tests had ever been performed for the USTs.

210. An alarm history report was generated at the July 2003 inspection from the Automatic Tank Gauging system's memory that indicated that several overfill and sudden loss alarms had been recorded by the system. No records concerning these occurrences were filed with NYSDEC.

211. At the July 2003 inspection, a waste oil UST was observed connected to the ATG. Upon information and belief, the Veeder-Root TLS-350 is not an accepted method of release detection on a waste oil USTs.

212. During the foregoing inspections, no records of operation and maintenance of cathodic protection were available for inspection at the facility.

F. 1081 Leggett Avenue, Bronx, New York

213. The 1081 Leggett Avenue facility serves as an

automobile fueling station and repair shop.

214. According to a July 2000 PBS form, the facility has six USTs including four 4,000-gallon USTs and two 275-gallon USTs, all installed in December 1998.

215. This facility was inspected by EPA on April 6, 1999 and January 28, 2002.

216. During EPA's April 6, 1999 inspection, the attendant at the facility did not know anything about the UST systems including the installation date, tank construction materials, cathodic protection or release detection.

217. During the April 6, 1999 inspection, catchment basins were observed on the fillports and overfill alarms were observed on the building. A Veeder-Root TLS 350 release detection monitoring system was observed, but not connected. Therefore, no release detection records could be retrieved.

218. The attendant on duty on April 6, 1999, did not know if the USTs had cathodic protection, and none was apparent during the inspection.

219. Records maintained by MG Consulting, a certified corrosion expert, indicate that cathodic protection was installed at the 1081 Leggett Avenue facility in April 1999.

220. MG Consulting records further demonstrate that no integrity assessment was performed prior to the installation of

cathodic protection in April 1999.

221. During EPA's inspection on January 28, 2002, catchment basins were observed on all four fillports and overfill alarms were observed.

222. On January 28, 2002, EPA inspectors retrieved a leak and alarm history from the ATG system. The printouts indicated that the method of release detection is Continuous Statistical Leak Detection. The printouts further indicated that all four tanks had passed leak detection tests for the previous twelve months.

223. During the foregoing inspections, no records of operation and maintenance of cathodic protection were available for inspection at the facility and none of the facility employees interviewed had knowledge of cathodic protection.

G. 83-10 Astoria Boulevard, Queens, New York

224. The 83-10 Astoria Boulevard facility formerly served as an automobile fueling station and repair shop.

225. According to a September 2001 PBS form, the facility had eleven USTs, including one 4,000-gallon UST and ten 550-gallon USTs.

226. Upon information and belief, the eleven USTs at the 83-10 Astoria Boulevard facility were installed before December 23, 1998.

227. EPA inspected this facility on November 3, 1999 and January 28, 2002.

228. During EPA's inspection on November 3, 1999, a Veeder-Root TLS-350 release detection monitoring system was observed, but it was not connected to the electrical power panel.

229. Records maintained by MG Consulting, a certified corrosion expert, indicate that cathodic protection was installed at the 83-10 Astoria Boulevard facility in January 1999.

230. MG Consulting records further demonstrate that no integrity assessment was performed prior to the installation of cathodic protection in January 1999.

231. During EPA's inspection on January 28, 2002, the automobile fueling station was not in operation. The USTs appeared to be in place, but did not appear to be temporarily or permanently closed. No spill or overfill equipment could be observed.

232. No records regarding operation and maintenance of cathodic protection were available for inspection at the facility during the foregoing inspections.

233. None of the employees interviewed by EPA inspectors were aware of cathodic protection.

234. On information and belief, thirteen USTs were removed from the ground at the 83-10 Astoria Boulevard facility in or

about March 2004.

H. 1508 Bushwick Avenue, Brooklyn, New York

235. The 1508 Bushwick Avenue facility serves as an automobile fueling service station.

236. According to a July 2001 PBS form, this facility has five 4,000-gallon USTs, all of which were installed in 1986.

237. EPA inspected this facility on October 21, 1999 and January 29, 2002.

238. During EPA's October 21, 1999 inspection, a Veeder-Root TLS-350 release detection monitoring system was in use, but the system was not registering data from four of the tanks. Review of inventory control records during the inspection revealed that the product in the tanks was measured to the nearest inch. No other records were available for review.

239. EPA's review of records maintained by corrosion experts, MG Consulting, indicate that cathodic protection was installed in January 1999. MG Consulting records further show that no integrity assessment was performed before cathodic protection was installed.

240. During the January 29, 2002 inspection, catchment basins were observed on all fillports and an overfill alarm and a Veeder-Root TLS-350 release detection monitoring system were observed. The Veeder Root release detection monitoring system

was, not functional.

241. On January 29, 2002, EPA inspectors were advised that Finkelstein comes to the station once per week to collect paperwork such as inventory reports and money.

242. During the foregoing inspections, no records of operation and maintenance of cathodic protection were available for inspection and none of the employees interviewed by EPA inspectors had knowledge of cathodic protection.

I. 2800 Bruckner Boulevard

243. The 2800 Bruckner Boulevard facility formerly served as an automobile service station.

244. According to a July 2000 PBS form, the facility had eleven USTs, including two 4,000-gallon USTs and nine 550-gallon USTs.

245. Upon information and belief, the eleven active USTs at the 2800 Bruckner Boulevard facility were installed before December 23, 1998.

246. EPA inspected this facility on April 6, 1999 and January 28, 2002.

247. During EPA's inspection on April 6, 1999, the attendant at the facility did not know about tank construction materials, cathodic protection or how leak protection is performed.

248. EPA's review of records maintained by corrosion

experts, MG Consulting, indicate that cathodic protection was installed in March 1999.

249. MG Consulting records further indicate that no integrity assessment was performed prior to the installation of cathodic protection in March 1999.

250. During EPA's inspection on January 28, 2002, the attendant at the facility did not know anything about UST monitoring, prevention systems, tank installation dates, tank construction materials or leak detection.

251. During EPA's inspection on January 28, 2002, catchment basins were observed on all fillports and an overfill alarm and a Veeder-Root TLS-350 release detection monitoring system were observed. No test data was available from the ATG system.

252. During the foregoing inspections, no records of operation and maintenance of cathodic protection were available for inspection, and none of the employees interviewed by EPA inspectors had knowledge of cathodic protection.

253. On information and belief, fourteen USTs were removed from the ground at the 2800 Bruckner Boulevard facility in or about January 2004.

J. 141-50 Union Turnpike, Queens, New York

254. The 141-50 Union Turnpike facility serves as an automobile fueling station.

255. According to an October 1997 PBS form, the facility has five 4,000-gallon USTs.

256. Upon information and belief, the USTs at the 141-50 Union Turnpike facility were installed before December 23, 1998.

257. EPA inspected this facility on November 3, 1999 and January 29, 2002.

258. During EPA's inspection on November 3, 1999, the attendant at the facility knew nothing about UST upgrading or cathodic protection. The existence of cathodic protection could not be determined from the inspection.

259. During the November 3, 1999 inspection, the attendant at the facility indicated that the tanks were measured twice daily. The readings for the day were recorded to the nearest 1/4 inch. This demonstrated a failure to comply with release detection requirements set forth at 40 C.F.R. § 280.43, which require measuring to the nearest 1/8 inch.

260. During EPA's inspection on January 29, 2002, catchment basins were observed on all fillports and an overfill alarm and a Veeder Root TLS-350 release detection monitoring system were observed. No leak and alarm history for USTs was available before November 2001.

261. During EPA's inspection on January 29, 2002, no records of cathodic protection operation and maintenance were available

for inspection at the facility and no facility employees interviewed by EPA inspectors during inspections had knowledge of cathodic protection.

K. 2642-66 Fulton Street, Brooklyn, New York

262. The 2642-66 Fulton Street facility serves as an automobile fueling station.

263. According to a November 2000 PBS form, the facility has four USTs including, three 4,000-gallon USTs, installed in 1984 and a 2,000-gallon UST installed in 1971.

264. EPA inspected this facility on October 21, 1999 and January 28, 2002.

265. During EPA's October 21, 1999 inspection, the attendant at the facility did not have information about cathodic protection or leak detection. The facility's Veeder Root TLS-350 release detection monitoring system was out of tape paper and displayed an illuminated red "fuel alarm" light and "paper out", "printer error" and "fuel alarm" messages. No records concerning this occurrence were filed with NYSDEC.

266. Review of inventory control records by EPA inspectors on October 21, 1999, demonstrated that the product in the tanks was measured to the nearest 1/4 inch. Further, on October 21, 1999, EPA inspectors observed the measuring stick which was graded to the nearest 1/4 inch, which indicated that the daily

log entries were taken to that measurement. This demonstrated a failure to comply with release detection requirements set forth at 40 C.F.R. § 280.43, which require measuring to the nearest 1/8 inch.

267. According to the records of MG Consulting, cathodic protection was installed at the 2642-66 Fulton Street facility in May 1995.

268. MG Consulting records indicated that no integrity assessment was performed prior to the installation of the cathodic protection in May 1995.

269. During the foregoing inspections, no records of the operation and maintenance of cathodic protection were available for inspection at the facility and none of the employees interviewed by EPA inspectors had knowledge of cathodic protection.

L. 1981 Ocean Avenue, Brooklyn, New York

270. The 1981 Ocean Avenue facility serves as an automobile fueling station.

271. According to a January 2002 PBS form dated October 2001, the facility has two 4,000-gallon USTs.

272. Upon information and belief, the USTs at the 1981 Ocean Avenue facility were installed before December 23, 1998.

273. EPA inspected this facility on October 19, 1999 and

January 28, 2002.

274. At the inspection, the EPA inspector observed three UST fillports, and was told by the attendant that there three 4000-gallon USTs.

275. During EPA's inspection on October 19, 1999, the attendant had no information concerning cathodic protection or leak detection. The facility's Veeder Root TLS-350 release detection monitoring system was out of tape paper and displayed an illuminated amber "warning" light and "paper out", "printer error" and fuel alarm" messages. No records concerning this occurrence were filed with NYSDEC.

276. During the October 19, 1999 inspection, review of inventory control records demonstrated that the product in the tanks was measured to the nearest 1/4 inch. This demonstrated a failure to comply with release detection requirements set forth at 40 C.F.R. § 280.43, which require measuring to the nearest 1/8 inch.

277. During EPA's inspection on January 28, 2002, the attendant at the facility did not know anything about the USTs such as monitoring or prevention systems, tank installation dates, tank construction materials, and leak detection.

278. According to Automatic Tank Gauge release detection system printouts obtained by EPA on January 28, 2002, Tank One

failed periodic tank tests from March 2001 through December 2001. Tanks Two and Three failed periodic tank tests for the years 2000 and 2001.

279. During the foregoing inspections, no records of operation and maintenance of cathodic protection were available for inspection at the facility.

REQUESTS FOR INFORMATION

280. Pursuant to Section 9005 of Subtitle I of RCRA and 40 C.F.R. § 280.34, on August 31, 1999, EPA sent a Request for Information letter ("Citygas § 9005 request") to Suman Khanna ("Khanna"), in his capacity as Citygas controller, in order to obtain compliance information as to service stations owned and/or operated by Citygas, including the twelve stations at issue in the instant complaint. The Citygas § 9005 request included requests for required records for stations owned and/or operated by Citygas or any principal shareholder or officer of Citygas under another name (as an individual, partnership, corporate shareholder, parent or subsidiary corporation), including records of the operation and maintenance of cathodic protection and records of compliance with release detection requirements.

281. By letter dated September 16, 1999, Carl Sulfaro, Esq. ("Mr. Sulfaro"), an attorney for Citygas, sought additional time for Khanna to respond to the Citygas § 9005 request.

282. EPA did not agree to extend the deadline for responding to the Citygas § 9005 request.

283. Some time after the September 16, 1999 letter, Mr. Sulfaro submitted general information about the scope of the Citygas enterprise, but did not provide specific information responsive to EPA's request.

284. On November 1, 1999, in a telephone call to EPA, Azadalli indicated that compliance with the Citygas § 9005 request was her responsibility, and that she had every intention of complying. Azadalli also indicated that she would begin to respond to the letter immediately, but in stages.

285. On November 9, 1999, Mr. Sulfaro submitted an annotated list of facilities related to Citygas to EPA, which included all twelve of the facilities at issue herein. At or around the same time, Mr. Sulfaro requested a conference at EPA offices to discuss the Citygas § 9005 request and general compliance with UST regulations.

286. On November 16, 1999, a meeting was held with EPA representatives during which Azadalli and her attorney agreed to provide information to EPA on an expedited basis.

287. In a letter dated November 18, 1999, Citygas, by its attorney Mr. Sulfaro, submitted limited information about a single facility that was the subject of the Citygas § 9005

request.

288. In a letter dated November 22, 1999, Mr. Sulfaro submitted further information to EPA. This information was limited and not responsive to the Citygas § 9005 request.

289. When no additional information was received from Citygas, EPA sent a letter to Mr. Sulfaro dated December 3, 1999, advising him of Citygas's failure to respond and requesting additional information.

290. There was no reply to EPA's December 3, 1999 letter, nor was any additional information received from Mr. Sulfaro, Azadalli, or Khanna or anyone else on behalf of Citygas.

291. Citygas did not provide records of compliance with release detection requirements in response to the Citygas § 9005 request for any of the twelve stations at issue in the instant complaint.

292. Citygas did not provide records of operation and maintenance of cathodic protection in response to the Citygas § 9005 request for any of the twelve stations at issue in the instant complaint, except the 117-01 Springfield Boulevard facility, where cathodic protection is not required because the USTs at the facility are made of fiberglass.

293. Pursuant to § 9005 of Subtitle I of RCRA and 40 C.F.R. § 280.34, on December 8, 1999, EPA sent a Request for Information

letter ("Finkelstein § 9005 request") to Finkelstein, in his capacity as owner of several of the USTs operated by Citygas. The Finkelstein § 9005 request included requests for required records for stations owned and/or operated by Finkelstein individually or through another corporation, parent or subsidiary corporation, including records of the operation and maintenance of cathodic protection and records of compliance with release detection requirements.

294. On February 7, 2000, EPA sent a notice of violation to Finkelstein reminding him of his obligation to respond to the § 9005 request.

295. On March 28, 2000, Finkelstein telephoned EPA and promised to respond to the § 9005 request.

296. EPA never received a response to the § 9005 request from Finkelstein.

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF

Failure to Close, Replace or Upgrade Gasoline USTs

(Facilities: 9702 Foster Avenue, 3715 14th Avenue, 4090 Boston Road, 1081 Leggett Avenue, 2800 Bruckner Boulevard)

297. Paragraphs 1 through 296 are realleged and incorporated by reference.

298. Defendants CITYGAS GASOLINE CORPORATION; FOSTER REALTY CORPORATION; FOSTER OPERATING CORPORATION; 14TH AVENUE REALTY

CORPORATION; 4090 BOSTON ROAD CORPORATION; CONNOR GAS N.Y. INC., 4090 N.Y. CORPORATION; LEGGETT LAND LIMITED; 1081 N.Y. CORPORATION; 2800 BRUCKNER BOULEVARD LLC; QUINCY GAS N.Y. INC.; and SATIN VENTURES INC. were required to close, replace or upgrade gasoline and waste oil USTs under their ownership or control in compliance with 40 C.F.R. § 280.21.

299. During inspections conducted between February 1999 and January 2002, EPA inspectors determined that gasoline and waste oil USTs at the facilities at 9702 Foster Avenue, 3715 14th Avenue, 4090 Boston Road, 1081 Leggett Avenue, and 2800 Bruckner Boulevard were not in compliance with 40 C.F.R. § 280.21. Many of the above-mentioned facilities were still in operation despite their non-compliance with 40 C.F.R. § 280.21.

300. Defendant CITYGAS GASOLINE CORPORATION, as owner and/or operator, failed to close, replace or upgrade, or cause to be upgraded, gasoline and waste oil USTs as required by 40 C.F.R. § 280.21 at USTs described above and located at 9702 Foster Avenue, Brooklyn, New York; 3715 14th Avenue, Brooklyn, New York; 4090 Boston Road, Bronx, New York; 1081 Leggett Avenue, Bronx, New York; and 2800 Bruckner Boulevard, Bronx, New York.

301. Defendant FOSTER REALTY CORPORATION, as owner, failed to close, replace or upgrade USTs described above and located at 9702 Foster Avenue, Brooklyn, New York, as required by 40 C.F.R.

§ 280.21.

302. Defendant FOSTER OPERATING CORPORATION, as owner and/or operator, failed to close, replace or upgrade USTs described above and located at 9702 Foster Avenue, Brooklyn, New York, as required by 40 C.F.R. § 280.21.

303. Defendant 14TH AVENUE REALTY CORPORATION, as owner, failed to close, replace or upgrade USTs described above and located at 3715 14th Avenue, Brooklyn, New York, as required by 40 C.F.R. § 280.21.

304. Defendant 4090 BOSTON ROAD CORPORATION, as owner, failed to close, replace or upgrade USTs described above and located at 4090 Boston Road, Bronx, New York, as required by 40 C.F.R. § 280.21.

305. Defendant CONNOR GAS N.Y., INC., as owner and/or operator, failed to close, replace or upgrade USTs described above and located at 4090 Boston Road, Bronx, New York, as required by 40 C.F.R. § 280.21.

306. Defendant 4090 N.Y. CORPORATION, as owner and/or operator, failed to close, replace or upgrade USTs described above and located at 4090 Boston Road, Bronx, New York, as required by 40 C.F.R. § 280.21.

307. Defendant LEGGETT LAND LIMITED, as owner, failed to close, replace or upgrade USTs described above and located at

1081 Leggett Avenue, Bronx, New York, as required by 40 C.F.R. § 280.21.

308. Defendant 1081 N.Y. CORPORATION, as owner and/or operator, failed to close, replace or upgrade USTs described above and located at 1081 Leggett Avenue, Bronx, New York, as required by 40 C.F.R. § 280.21.

309. Defendant 2800 BRUCKNER BOULEVARD LLC, as owner, failed to close, replace or upgrade, or cause to be upgraded, gasoline and waste oil USTs as required by 40 C.F.R. § 280.21 the USTs described above and located at 2800 Bruckner Boulevard, Bronx, New York.

310. Defendant QUINCY GAS N.Y. INC., as owner and/or operator, failed to close, replace or upgrade, or cause to be upgraded, the USTs described above and located at 2800 Bruckner Boulevard, Bronx, New York, as required by 40 C.F.R. § 280.21.

311. Defendant SATIN VENTURES INC., as owner and/or operator, failed to close, replace or upgrade, or cause to be upgraded, the USTs described above and located at 2800 Bruckner Boulevard, Bronx, New York, as required by 40 C.F.R. § 280.21.

312. Pursuant to section 9006(a) and (d) of RCRA, 42 U.S.C. § 6991e(a) and (d), CITYGAS GASOLINE CORPORATION; FOSTER REALTY CORPORATION; FOSTER OPERATING CORPORATION; 14TH AVENUE REALTY CORPORATION; 4090 BOSTON ROAD CORPORATION; CONNOR GAS N.Y. INC.,

4090 N.Y. CORPORATION; LEGGETT LAND LIMITED; 1081 N.Y. CORPORATION; 2800 BRUCKNER BOULEVARD LLC; QUINCY GAS N.Y. INC.; and SATIN VENTURES INC. are subject to injunctive relief and are liable for civil penalties based upon the first claim for relief.

SECOND CLAIM FOR RELIEF

Failure to Ensure that the Gasoline USTs Comply
with Requirement of Assessing Structural Integrity
Before Installing Cathodic Protection

(Facilities: 4090 Boston Road, 1081 Leggett Avenue, 83-10 Astoria Boulevard, 2800 Bruckner Boulevard, 2642-66 Fulton Street)

313. Paragraphs 1 through 312 are realleged and incorporated by reference.

314. Upon information and belief, the owners and operators of the USTs at 4090 Boston Road, Bronx, New York; 1081 Leggett Avenue, Bronx, New York; 83-10 Astoria Boulevard, Queens, New York; 2800 Bruckner Boulevard, Bronx, New York; and 2642-66 Fulton Street, Brooklyn, New York, elected to upgrade the USTs by installation of cathodic protection.

315. Pursuant to 40 C.F.R. § 280.21(b)(2) defendants CITYGAS GASOLINE CORPORATION; 4090 BOSTON ROAD CORPORATION; CONNOR GAS N.Y. INC.; 4090 N.Y. CORPORATION; LEGGETT LAND LIMITED; 1081 N.Y. CORPORATION; 2800 BRUCKNER BOULEVARD LLC; QUINCY N.Y. INC.; 83-10 ASTORIA BOULEVARD LLC; EDEN EQUITIES INC.; PENN-FULTON MANAGEMENT, INC.; and FULTON GAS N.Y., INC. were required to ensure that the gasoline USTs under their

ownership or control were structurally sound before installing cathodic protection.

316. Pursuant to 40 C.F.R. § 280.21(a), all existing UST systems must comply with the structural integrity assessment requirements of 40 C.F.R. § 280.21(b)(2).

317. Pursuant to 40 C.F.R. § 280.21(a), Defendants 4090 BOSTON ROAD LLC, E.D. FUELS LLC, and ENKIDO GASOLINE CORPORATION were required to ensure that the existing USTs that they owned and/or operated comply with the structural integrity assessment requirements of 40 C.F.R. § 280.21(b)(2).

318. Based upon the review of records maintained by corrosion experts and inspections conducted between February 1999 and January 2002, EPA inspectors determined that the above-mentioned USTs were not upgraded in compliance with 40 C.F.R. § 280.21(b)(2).

319. Defendant CITYGAS GASOLINE CORPORATION, as owner and/or operator, failed to ensure that the gasoline tanks were structurally sound before installing cathodic protection as required by 40 C.F.R. § 280.21 at USTs described above and located at 4090 Boston Road, Bronx, New York; 1081 Leggett Avenue, Bronx, New York; 2800 Bruckner Boulevard, Bronx, New York; 83-10 Astoria Boulevard, Queens, New York; 2800 Bruckner Boulevard, Bronx, New York; and 2642-66 Fulton Street, Brooklyn,

New York.

320. Defendant 4090 BOSTON ROAD CORPORATION, as owner, failed to ensure that the gasoline tanks were structurally sound before installing cathodic protection as required by 40 C.F.R. § 280.21(b)(2) at USTs described above and located at 4090 Boston Road, Bronx, New York.

321. Defendant 4090 N.Y. CORPORATION, as owner and/or operator, failed to ensure that the gasoline tanks were structurally sound before installing cathodic protection as required by 40 C.F.R. § 280.21(b)(2) at USTs described above and located at 4090 Boston Road, Bronx, New York.

322. Defendant 4090 BOSTON ROAD LLC, as owner, has failed to ensure that the existing USTs described above and located at 4090 Boston Road, Bronx, New York, comply with the structural integrity assessment requirements of 40 C.F.R. § 280.21(b)(2).

323. Defendant CONNOR GAS N.Y., INC., as owner and/or operator, failed to ensure that the gasoline tanks were structurally sound before installing cathodic protection as required by 40 C.F.R. § 280.21(b)(2) at USTs described above and located at 4090 Boston Road, Bronx, New York.

324. Defendant LEGGETT LAND LIMITED, as owner, failed to ensure that the gasoline tanks were structurally sound before installing cathodic protection as required by 40 C.F.R.

§ 280.21(b)(2) at USTs described above and located at 1081 Leggett Avenue, Bronx, New York.

325. Defendant 1081 N.Y. CORPORATION as owner and/or operator, failed to ensure that the gasoline tanks were structurally sound before installing cathodic protection as required by 40 C.F.R. § 280.21(b)(2) at USTs described above and located at 1081 Leggett Avenue, Bronx, New York.

326. Defendant 2800 BRUCKNER BOULEVARD LLC, as owner, failed to ensure described above and located at 2800 Bruckner Boulevard, Bronx, New York, were structurally sound before installing cathodic protection as required by 40 C.F.R. § 280.21(b)(2).

327. Defendant E.D. FUELS LLC, as owner and/or operator, failed to ensure that the USTs described above and located at 2800 Bruckner Boulevard, Bronx, New York, complied with the structural integrity assessment requirements of 40 C.F.R. § 280.21(b)(2).

328. Defendant QUINCY GAS N.Y., INC. as owner and/or operator, failed to ensure that the gasoline tanks were structurally sound before installing cathodic protection as required by 40 C.F.R. § 280.21(b)(2) at USTs described above and located at 2800 Bruckner Boulevard, Bronx, New York.

329. Defendant ENKIDO GASOLINE CORPORATION, as owner and/or

operator, failed to ensure that the USTs described above and located at 2800 Bruckner Boulevard, Bronx, New York, complied with the structural integrity assessment requirements of 40 C.F.R. § 280.21(b)(2).

330. Defendant SATIN VENTURES INC., as owner and/or operator, failed to ensure that the USTs described above and located at 2800 Bruckner Boulevard, Bronx, New York, were structurally sound before installing cathodic protection as required by 40 C.F.R. § 280.21(b)(2).

331. Defendant 83-10 ASTORIA BOULEVARD LLC, as owner, failed to ensure that the USTs described above and located at 83-10 Astoria Boulevard, Queens, New York, were structurally sound before installing cathodic protection as required by 40 C.F.R. § 280.21(b)(2).

332. Defendant EDEN EQUITIES INC., as owner and/or operator, failed to ensure that the USTs described above and located at 83-10 Astoria Boulevard, Queens, New York, were structurally sound before installing cathodic protection as required by 40 C.F.R. § 280.21(b)(2).

333. Defendant PENN-FULTON MANAGEMENT, as owner, failed to ensure that the gasoline tanks were structurally sound before installing cathodic protection as required by 40 C.F.R. § 280.21(b)(2) at USTs described above and located at 2642-66

Fulton Street, Brooklyn, New York.

334. Defendant FULTON GAS N.Y., INC., as owner and/or operator, failed to ensure that the gasoline tanks were structurally sound before installing cathodic protection as required by 40 C.F.R. § 280.21(b)(2) at USTs described above and located at 2642-66 Fulton Street, Brooklyn, New York.

335. Pursuant to section 9006(a) and (d) of RCRA, 42 U.S.C. § 6991e(a) and (d), defendants CITYGAS GASOLINE CORPORATION;, 4090 BOSTON ROAD CORPORATION; 4090 BOSTON ROAD LLC; CONNOR GAS N.Y. INC.; 4090 N.Y. CORPORATION; LEGGETT LAND LIMITED; 1081 N.Y. CORPORATION; 2800 BRUCKNER BOULEVARD LLC; E.D. FUELS LLC; QUINCY GAS N.Y. INC.; ENKIDO GASOLINE CORPORATION; SATIN VENTURES INC; 83-10 ASTORIA BOULEVARD LLC; EDEN EQUITIES INC.; PENN-FULTON MANAGEMENT, INC.; and FULTON GAS N.Y., INC. are subject to injunctive relief and are liable for civil penalties based upon the second claim for relief.

THIRD CLAIM FOR RELIEF

Failure to Provide Methods of Release Detection for UST Systems and Maintain Records of Release Detection

(All Facilities)

336. Paragraphs 1 through 335 are realleged and incorporated by reference.

337. Pursuant to 40 C.F.R. § 280.34 and 40 C.F.R. Part 280, Subpart D, defendants CITYGAS GASOLINE CORPORATION; FOSTER REALTY

CORPORATION; FOSTER OPERATING CORPORATION; 14TH AVENUE REALTY CORPORATION; 10 B. STREET REALTY CORPORATION; GARY'S AUTO SERVICE STATION, INC.; 4090 BOSTON ROAD CORPORATION; CONNOR GAS N.Y. INC.; 4090 N.Y. CORPORATION; 117-01 SPRINGFIELD BLVD LLC; SPRINGFIELD OPERATING CORPORATION; 117-01 N.Y. CORP.; LEGGETT LAND LIMITED; 1081 N.Y. CORPORATION; TIJUANA ENTERPRISES INC.; ONE MORE GASOLINE COMPANY INC.; 2800 BRUCKNER BOULEVARD LLC; E.D. FUELS LLC; QUINCY GAS N.Y., INC.; ENKIDO GASOLINE CORPORATION; SIDNEY ESIKOFF FAMILY TRUST; SATIN VENTURES INC.; 83-10 ASTORIA BOULEVARD LLC; EDEN EQUITIES INC.; PENN-FULTON MANAGEMENT, INC.; FULTON GAS N.Y.; and FLUSHING 168 CORPORATION are required to provide a method of release detection and maintain records of compliance with release detection requirements for USTs under their ownership or control.

338. Based upon inspections conducted between February 1999 and January 2002, the lack of response to EPA's section 9005 requests to Citygas and Finkelstein, and independent research, the owners and operators of the above-mentioned USTs are not in compliance with the release detection and record-keeping requirements of § 280.34 and 40 C.F.R. Part 280, Subpart D.

339. Defendant CITYGAS GASOLINE CORPORATION, as owner and/or operator, failed to provide methods of release detection for UST systems and maintain records of compliance with release detection

requirements as required by 40 C.F.R. § 280.34 and 40 C.F.R. Part 280, Subpart D, at USTs described above and located at 9702 Foster Avenue, Brooklyn, New York; 3715 14th Avenue, Brooklyn, New York; 10 Bond Street, New York, New York; 4090 Boston Road, Bronx, New York; 117-01 Springfield Boulevard, Queens, New York; 1081 Leggett Avenue, Bronx, New York; 83-10 Astoria Boulevard, Queens, New York; 1508 Bushwick Avenue, Brooklyn, New York; 2800 Bruckner Boulevard, Bronx, New York; 141-50 Union Turnpike Queens, New York; 2642-66 Fulton Street, Brooklyn, New York and 1981 Ocean Avenue, Brooklyn, New York.

340. Defendant FOSTER REALTY CORPORATION, as owner, failed to provide methods of release detection for UST systems and maintain records of compliance with release detection requirements as required by 40 C.F.R. § 280.34 and 40 C.F.R. Part 280, Subpart D, at USTs described above and located at 9702 Foster Avenue, Brooklyn, New York.

341. Defendant FOSTER OPERATING CORPORATION, as owner and/or operator, failed to provide methods of release detection for UST systems and maintain records of compliance with release detection requirements as required by 40 C.F.R. § 280.34 and 40 C.F.R. Part 280, Subpart D, at USTs described above and located at 9702 Foster Avenue, Brooklyn, New York.

342. Defendant 14TH AVENUE REALTY CORPORATION, as owner,

failed to provide methods of release detection for UST systems and maintain records of compliance with release detection requirements as required by 40 C.F.R. § 280.34 and 40 C.F.R. Part 280, Subpart D, at USTs described above and located at 3715 14th Avenue, Brooklyn, New York.

343. Defendant 10 B. STREET REALTY CORPORATION, as owner, failed to provide methods of release detection for UST systems and maintain records of compliance with release detection requirements as required by 40 C.F.R. § 280.34 and 40 C.F.R. Part 280, Subpart D, at USTs described above and located at 10 Bond Street, New York, New York.

344. Defendant GARY'S AUTO SERVICE STATION, INC., as owner and/or operator, failed to provide methods of release detection for UST systems and maintain records of compliance with release detection requirements as required by 40 C.F.R. § 280.34 and 40 C.F.R. Part 280, Subpart D, at USTs described above and located at 10 Bond Street, New York, New York.

345. Defendant 4090 BOSTON ROAD CORPORATION, as owner, failed to provide methods of release detection for UST systems and maintain records of compliance with release detection requirements as required by 40 C.F.R. § 2380.34 and 40 C.F.R. Part 280, Subpart D, at USTs described above and located at 4090 Boston Road, Bronx, New York.

346. Defendant CONNOR GAS N.Y., INC., as owner and/or operator, failed to provide methods of release detection for UST systems and maintain records of compliance with release detection requirements as required by 40 C.F.R. § 280.34 and 40 C.F.R. Part 280, Subpart D, at USTs described above and located at 4090 Boston Road, Bronx, New York.

347. Defendant 4090 N.Y. CORPORATION, as owner and/or operator, failed to provide methods of release detection for UST systems and maintain records of compliance with release detection requirements as required by 40 C.F.R. § 280.34 and 40 C.F.R. Part 280, Subpart D, at USTs described above and located at 4090 Boston Road, Bronx, New York.

348. Defendant 117-01 SPRINGFIELD BLVD LLC, as owner, failed to provide methods of release detection and maintain records of compliance with release detection requirements as required by 40 C.F.R. § 280.34 and 40 C.F.R. Part 280, Subpart D, for one or more USTs described above and located at 117-01 Springfield Boulevard, Queens, New York.

349. Defendant SPRINGFIELD OPERATING CORPORATION, as operator, failed to provide methods of release detection for UST systems and maintain records of compliance with release detection requirements as required by 40 C.F.R. § 280.34 and 40 C.F.R. Part 280, Subpart D, at USTs described above and located at 117-01

Springfield Boulevard, Queens, New York.

350. Defendant 117-01 N.Y. CORP., as owner and/or operator, failed to provide methods of release detection and maintain records of compliance with release detection requirements as required by 40 C.F.R. § 280.34 and 40 C.F.R. Part 280, Subpart D, for one or more USTs described above and located at 117-01 Springfield Boulevard, Queens, New York.

351. Defendant LEGGETT LAND LIMITED, as owner, failed to provide methods of release detection for UST systems and maintain records of compliance with release detection requirements as required by 40 C.F.R. § 280.34 and 40 C.F.R. Part 280, Subpart D, at USTs described above and located at 1081 Leggett Avenue, Bronx, New York.

352. Defendant 1081 N.Y. CORPORATION, as owner and/or operator, failed to provide methods of release detection for UST systems and maintain records of compliance with release detection requirements as required by 40 C.F.R. § 280.34 and 40 C.F.R. Part 280, Subpart D, at USTs described above and located at 1081 Leggett Avenue, Bronx, New York.

353. Defendant TIJUANA ENTERPRISES, INC., as owner, failed to provide methods of release detection for UST systems and maintain records of compliance with release detection requirements as required by 40 C.F.R. § 280.34 and 40 C.F.R. Part

280, Subpart D, at USTs described above and located at 1508 Bushwick Avenue, Brooklyn, New York.

354. Defendant ONE MORE GASOLINE COMPANY INC., as owner and/or operator, failed to provide methods of release detection for UST systems and maintain records of compliance with release detection requirements as required by 40 C.F.R. § 280.34 and 40 C.F.R. Part 280, Subpart D, for USTs described above and located at 1508 Bushwick Avenue, Brooklyn, New York.

355. Defendant 2800 BRUCKNER BOULEVARD LLC, as owner, failed to provide methods of release detection for UST systems and maintain records of compliance with release detection requirements as required by 40 C.F.R. § 280.34 and 40 C.F.R. Part 280, Subpart D, at USTs described above and located at 2800 Bruckner Boulevard, Bronx, New York.

356. Defendant E.D. FUELS LLC, as owner and/or operator, failed to provide methods of release detection for UST systems and maintain records of compliance with release detection requirements as required by 40 C.F.R. § 280.34 and 40 C.F.R. Part 280, Subpart D, at USTs described above and located at 2800 Bruckner Boulevard, Bronx, New York.

357. Defendant QUINCY GAS N.Y., INC., as owner and/or operator, failed to provide methods of release detection for UST systems and maintain records of compliance with release detection

requirements as required by 40 C.F.R. § 280.34 and 40 C.F.R. Part 280, Subpart D, at USTs described above and located at 2800 Bruckner Boulevard, Bronx, New York.

358. Defendant ENKIDO GASOLINE CORPORATION, as owner, failed to provide methods of release detection for UST systems and maintain records of compliance with release detection requirements as required by 40 C.F.R. § 280.34 and 40 C.F.R. Part 280, Subpart D, at USTs described above and located at 2800 Bruckner Boulevard, Bronx, New York.

359. Defendant SIDNEY ESIKOFF FAMILY TRUST, as owner, failed to provide methods of release detection for UST systems and maintain records of compliance with release detection requirements as required by 40 C.F.R. § 280.34 and 40 C.F.R. Part 280, Subpart D, at USTs described above and located at 141-50 Union Turnpike, Queens, New York.

360. Defendant SATIN VENTURES INC., as owner and/or operator, failed to provide methods of release detection for UST systems and maintain records of compliance with release detection requirements as required by 40 C.F.R. § 280.34 and 40 C.F.R. Part 280, Subpart D, at USTs described above and located at 141-50 Union Turnpike, Queens, New York, and at 2800 Bruckner Boulevard, Bronx, New York.

361. Defendant 83-10 ASTORIA BOULEVARD LLC, as owner, failed

to provide methods of release detection for UST systems and maintain records of compliance with release detection requirements as required by 40 C.F.R. § 280.34 and 40 C.F.R. Part 280, Subpart D, at USTs described above and located at 141-50 Union Turnpike, Queens, New York, and at 83-10 Astoria Boulevard, Queens, New York.

362. Defendant EDEN EQUITIES INC., as owner and/or operator, failed to provide methods of release detection for UST systems and maintain records of compliance with release detection requirements as required by 40 C.F.R. § 280.34 and 40 C.F.R. Part 280, Subpart D, at USTs described above and located at 141-50 Union Turnpike, Queens, New York, and at 83-10 Astoria Boulevard, Queens, New York.

363. Defendant PENN-FULTON MANAGEMENT, INC., as owner, failed to provide methods of release detection for UST systems and maintain records of compliance with release detection requirements as required by 40 C.F.R. § 280.34 and 40 C.F.R. Part 280, Subpart D, at USTs described above and located at 2642-66 Fulton Street, Brooklyn, New York.

364. Defendant FULTON GAS N.Y., INC., as owner and/or operator, failed to provide methods of release detection for UST systems and maintain records of compliance with release detection requirements as required by 40 C.F.R. § 280.34 and 40 C.F.R. Part

280, Subpart D, at USTs described above and located at 2642-66
Fulton Street, Brooklyn, New York.

365. Defendant FLUSHING 168 CORPORATION, as owner and/or
operator, failed to provide methods of release detection for UST
systems and maintain records of compliance with release detection
requirements as required by 40 C.F.R. § 280.34 and 40 C.F.R. Part
280, Subpart D, at USTs described above and located at 2642-66
Fulton Street, Brooklyn, New York.

366. Pursuant to section 9006(a) and (d) of RCRA, 42 U.S.C.
§ 6991e(a) and (d), defendants CITYGAS GASOLINE CORPORATION;
FOSTER REALTY CORPORATION; FOSTER OPERATING CORPORATION; 14TH
AVENUE REALTY CORPORATION; 10 B. STREET REALTY CORPORATION;
GARY'S AUTO SERVICE STATION, INC.; 4090 BOSTON ROAD CORPORATION;
CONNOR GAS N.Y. INC.; 4090 N.Y. CORPORATION; 117-01 SPRINGFIELD
BLVD LLC; SPRINGFIELD OPERATING CORPORATION; 117-01 N.Y. CORP.;
LEGGETT LAND LIMITED; 1081 N.Y. CORPORATION; TIJUANA ENTERPRISES
INC.; ONE MORE GASOLINE COMPANY INC.; 2800 BRUCKNER BOULEVARD
LLC; E.D. FUELS LLC; QUINCY GAS N.Y., INC.; ENKIDO GASOLINE
CORPORATION; SIDNEY ESIKOFF FAMILY TRUST; SATIN VENTURES INC.;
83-10 ASTORIA BOULEVARD LLC; EDEN EQUITIES INC.; PENN-FULTON
MANAGEMENT, INC.; FULTON GAS N.Y.; and FLUSHING 168 CORPORATION
are subject to injunctive relief and are liable for civil
penalties based upon the third claim for relief.

FOURTH CLAIM FOR RELIEFFailure to Temporarily Close Gasoline USTs

(Facilities: 9702 Foster Avenue, 3715 14th Avenue)

367. Paragraphs 1 through 366 are realleged and incorporated by reference.

368. Pursuant to 40 C.F.R. § 280.70(a) and (b), defendants CITYGAS GASOLINE CORPORATION, FOSTER REALTY CORPORATION, 9702-9706 FOSTER AVENUE LLC; FOSTER OPERATING CORPORATION, and 14TH AVENUE REALTY CORPORATION were required to temporarily close gasoline USTs at the facilities at 9702 Foster Avenue and 3715 14th Avenue under their ownership or control.

369. Based upon inspections conducted between February 1999 and January 2002, EPA inspectors determined that the above-mentioned USTs were not in compliance with 40 C.F.R. § 280.70(a) and (b).

370. Defendant CITYGAS GASOLINE CORPORATION, as owner and/or operator, failed to temporarily close gasoline USTs as required by 40 C.F.R. § 280.70(a) and (b) at USTs described above and located at 9702 Foster Avenue, Brooklyn, New York and 3715 14th Avenue, Brooklyn, New York.

371. Defendant FOSTER REALTY CORPORATION, as owner, failed to temporarily close gasoline USTs as required by 40 C.F.R. § 280.70(a) and (b) at USTs described above and located at 9702

Foster Avenue, Brooklyn, New York.

372. Defendant 9702-9706 FOSTER AVENUE LLC, as owner, failed to temporarily close the gasoline USTs described above and located at 9702 Foster Avenue, Brooklyn, New York, as required by 40 C.F.R. §§ 280.70(a) and (b).

373. Defendant FOSTER OPERATING CORPORATION, as owner and/or operator, failed to temporarily close gasoline USTs as required by 40 C.F.R. § 280.70(a) and (b) at USTs described above and located at 9702 Foster Avenue, Brooklyn, New York.

374. Defendant 14TH AVENUE REALTY CORPORATION, as owner, failed to temporarily close gasoline USTs as required by 40 C.F.R. § 280.70(a) and (b) at USTs described above and located at 3715 14th Avenue, Brooklyn, New York.

375. Pursuant to section 9006(a) and (d) of RCRA, 42 U.S.C. § 6991e(a) and (d), defendants CITYGAS GASOLINE CORPORATION, FOSTER REALTY CORPORATION, 9702-9706 FOSTER AVENUE LLC; FOSTER OPERATING CORPORATION, and 14TH AVENUE REALTY CORPORATION are subject to injunctive relief and are liable for civil penalties based upon the fourth claim for relief.

FIFTH CLAIM FOR RELIEF

Failure to Permanently Close Gasoline UST
Systems and Perform Site Assessments

(Facilities: 9702 Foster Avenue and 3715 14th Avenue)

376. Paragraphs 1 through 374 are realleged and incorporated by reference.

377. Pursuant to 40 C.F.R. § 280.70(c) defendants CITYGAS GASOLINE CORPORATION; FOSTER REALTY CORPORATION; 9702-9706 FOSTER AVENUE LLC; FOSTER OPERATING CORPORATION; and 14TH AVENUE REALTY CORPORATION were required to permanently close gasoline UST systems at the facilities at 9702 Foster Avenue and 3715 14th Avenue under their ownership or control in accordance with 40 C.F.R. §§ 280.71-280.74.

378. Pursuant to 40 C.F.R. § 280.71(b), to permanently close the gasoline UST systems at the facilities at 9702 Foster Avenue and 3715 14th Avenue under their ownership or control, defendants CITYGAS GASOLINE CORPORATION, FOSTER REALTY CORPORATION, FOSTER OPERATING CORPORATION, and 14TH AVENUE REALTY CORPORATION were required to have the USTs emptied, cleaned, and either removed from the ground or filled with an inert solid material.

379. Pursuant to 40 C.F.R. § 280.72(a) defendants CITYGAS GASOLINE CORPORATION; FOSTER REALTY CORPORATION; 9702-9706 FOSTER AVENUE LLC; FOSTER OPERATING CORPORATION; and 14TH AVENUE REALTY CORPORATION were required to perform a site assessment prior to

the completion of permanent closure of the gasoline UST systems at the facilities at 9702 Foster Avenue and 3715 14th Avenue under their ownership or control.

380. Based upon inspections conducted between February 1999 and January 2002, EPA inspectors determined that the owners and operators of the above-mentioned USTs were not in compliance with 40 C.F.R. §§ 280.70(c) and 280.71(b).

381. Defendant CITYGAS GASOLINE CORPORATION, as owner and/or operator, failed to permanently close gasoline USTs and perform site assessments as required by 40 C.F.R. §§ 280.70(c) and 280.72(a) located at 9702 Foster Avenue, Brooklyn, New York and 3715 14th Avenue, Brooklyn, New York.

382. Defendant FOSTER REALTY CORPORATION, as owner, failed to permanently close gasoline USTs as required by 40 C.F.R. §§ 280.70(c) and 280.71(b) at USTs described above and located at 9702 Foster Avenue, Brooklyn, New York.

383. Defendant 9702-9706 FOSTER AVENUE LLC, as owner, failed to permanently close the gasoline USTs described above and located at 9702 Foster Avenue, Brooklyn, New York, as required by 40 C.F.R. §§ 280.70(c) and 280.71(b).

384. Defendant FOSTER OPERATING CORPORATION, as owner and/or operator, failed to permanently close gasoline USTs, as required by 40 C.F.R. §§ 280.70(c) and 280.71(b) at USTs described above

and located at 9702 Foster Avenue, Brooklyn, New York.

385. Defendant 14TH AVENUE REALTY CORPORATION, as owner, failed to permanently close gasoline USTs as required by 40 C.F.R. §§ 280.70(c) and 280.71(b) at USTs described above and located at 3715 14th Avenue, Brooklyn, New York.

386. Pursuant to section 9006(a) and (d) of RCRA, 42 U.S.C. § 6991e(a) and (d), defendants CITYGAS GASOLINE CORPORATION; FOSTER REALTY CORPORATION; 9702-9706 FOSTER AVENUE LLC; FOSTER OPERATING CORPORATION; and 14TH AVENUE REALTY CORPORATION are subject to injunctive relief and are liable for civil penalties based upon the fifth claim for relief.

SIXTH CLAIM FOR RELIEF

Failure to Report Suspected Release
and/or Unusual Operating Conditions

(Facilities: 117-01 Springfield Boulevard,
2642-66 Fulton Street, 1981 Ocean Avenue)

387. Paragraphs 1 through 386 are realleged and incorporated by reference.

388. Pursuant to 40 C.F.R. § 280.50 defendants CITYGAS GASOLINE CORPORATION; 117-01 SPRINGFIELD BLVD LLC; SPRINGFIELD OPERATING CORPORATION; PENN-FULTON MANAGEMENT, INC. FULTON GAS N.Y., INC., and FLUSHING 168 CORP. were required to report suspected release and/or unusual operating conditions at USTs under their ownership or operation and follow the release

investigation and confirmation procedures set forth in 40 C.F.R. § 280.52 for any such conditions.

389. Based upon review of records maintained by NYSDEC and inspections conducted between February 1999 and July 2003, EPA inspectors have determined that the owners and operators of the above-mentioned USTs are not in compliance with 40 C.F.R. § 280.50.

390. Defendant CITYGAS GASOLINE CORPORATION, as owner and/or operator, failed to report suspected release and/or unusual operating conditions as required by 40 C.F.R. § 280.50 at USTs described above and located at: 117-01 Springfield Boulevard, Queens, New York; 2642-66 Fulton Street, Brooklyn, New York; and 1981 Ocean Avenue, Brooklyn, New York.

391. Defendant 117-01 SPRINGFIELD BLVD LLC, as owner, failed to report suspected release and/or unusual operating conditions as required by 40 C.F.R. § 280.50 at USTs described above and located at 117-01 Springfield Boulevard, Queens, New York.

392. Defendant SPRINGFIELD OPERATING CORPORATION, as operator, failed to report suspected release and/or unusual operating conditions as required by 40 C.F.R. § 280.50 at USTs described above and located at 117-01 Springfield Boulevard, Queens, New York.

393. Defendant PENN-FULTON MANAGEMENT, INC., as owner,

failed to report suspected release and/or unusual operating conditions as required by 40 C.F.R. § 280.50 for USTs described above and located at 2642-66 Fulton Street, Brooklyn, New York.

394. Defendant FULTON GAS N.Y., INC., as owner and/or operator, failed to report suspected release and/or unusual operating conditions as required by 40 C.F.R. § 280.50 for USTs described above and located at 2642-66 Fulton Street, Brooklyn, New York.

395. Defendant FLUSHING 168 CORP., as owner and/or operator, failed to report suspected release and/or unusual operating conditions as required by 40 C.F.R. § 280.50 for USTs described above and located at 2642-66 Fulton Street, Brooklyn, New York.

396. Pursuant to section 9006(a) and (d) of RCRA, 42 U.S.C. § 6991e(a) and (d), defendants CITYGAS GASOLINE CORPORATION; 117-01 SPRINGFIELD BLVD LLC; SPRINGFIELD OPERATING CORPORATION; PENN-FULTON MANAGEMENT, INC.; FULTON GAS N.Y., INC.; and FLUSHING 168 CORP. are subject to injunctive relief and are liable for civil penalties based upon the sixth claim for relief.

SEVENTH CLAIM FOR RELIEF

Failure to Maintain Records of the
Operation and Maintenance of Cathodic Protection

(Facilities: 9702 Foster Avenue, 3715 14th Avenue, 10 Bond Street, 4090 Boston Road, 1081 Leggett Avenue, 83-10 Astoria Boulevard, 1508 Bushwick Avenue, 2800 Bruckner Boulevard, 141-50 Union Turnpike, 2642-66 Fulton Street, 1981 Ocean Avenue)

397. Paragraphs 1 through 395 are realleged and incorporated by reference.

398. Pursuant to 40 C.F.R. §§ 280.31(d) and 280.34, defendants CITYGAS GASOLINE CORPORATION; FOSTER REALTY CORPORATION; FOSTER OPERATING CORPORATION; 14TH AVENUE REALTY CORPORATION; 10 B. STREET REALTY CORPORATION; GARY'S AUTO SERVICE STATION, INC.; 4090 BOSTON ROAD CORPORATION; CONNOR GAS N.Y. INC.; 4090 N.Y. CORPORATION; LEGGETT LAND LIMITED; 1081 N.Y. CORPORATION; TIJUANA ENTERPRISES, INC.; 2800 BRUCKNER BOULEVARD LLC; E.D. FUELS, LLC; QUINCY GAS N.Y., INC.; ENKIDO GASOLINE CORPORATION; SIDNEY ESIKOFF FAMILY TRUST; 141-50 UNION TURNPIKE LLC; SATIN VENTURES INC.; SLINGSHOT GASOLINE, INC.; 83-10 ASTORIA BOULEVARD LLC; EDEN EQUITIES INC.; PENN-FULTON MANAGEMENT, INC., FULTON GAS N.Y., INC., FLUSHING 168 CORP.; and 1981 N.Y. CORPORATION are required to maintain records of the operation and maintenance of cathodic protection to demonstrate compliance with performance standards in 40 C.F.R. § 280.31 of USTs under their ownership or control.

399. Based upon inspections conducted between February 1999 and January 2002 and the lack of response to EPA's section 9005 requests to Citygas and Finkelstein, the above-mentioned defendants are not in compliance with the requirements of 40 C.F.R. §§ 280.31(d) and 280.34 to maintain records of operation of cathodic protection.

400. Defendant CITYGAS GASOLINE CORPORATION, as owner and/or operator, failed to maintain records of the operation of cathodic protection as required by 40 C.F.R. §§ 280.31(d) and 280.34 for USTs described above and located at 9702 Foster Avenue, Brooklyn, New York; 3715 14th Avenue, Brooklyn, New York; 10 Bond Street, New York, New York; 4090 Boston Road, Bronx, New York; 1081 Leggett Avenue, Bronx, New York; 83-10 Astoria Boulevard, Queens, New York; 1508 Bushwick Avenue, Brooklyn, New York; 2800 Bruckner Boulevard, Bronx, New York; 141-50 Union Turnpike, Queens, New York; 2642-66 Fulton Street, Brooklyn, New York, and 1981 Ocean Avenue, Brooklyn, New York.

401. Defendant FOSTER REALTY CORPORATION, as owner, failed to maintain records of the operation of cathodic protection as required by 40 C.F.R. §§ 280.31(d) and 280.34 for USTs described above and located at 9702 Foster Avenue, Brooklyn, New York.

402. Defendant FOSTER OPERATING CORPORATION, as owner and/or operator, failed to maintain records of the operation of cathodic

protection as required by 40 C.F.R. §§ 280.31(d) and 280.34 for USTs described above and located at 9702 Foster Avenue, Brooklyn, New York.

403. Defendant 14TH AVENUE REALTY CORPORATION, as owner, failed to maintain records of the operation of cathodic protection as required by 40 C.F.R. §§ 280.31(d) and 280.34 for USTs described above and located at 3715 14th Avenue, Brooklyn, New York.

404. Defendant 10 B. STREET REALTY CORPORATION, as owner, failed to maintain records of the operation of cathodic protection as required by 40 C.F.R. §§ 280.31(d) and 280.34 for USTs described above and located at 10 Bond Street, New York, New York.

405. Defendant GARY'S AUTO SERVICE STATION, INC., as owner and/or operator, failed to maintain records of the operation of cathodic protection as required by 40 C.F.R. §§ 280.31(d) and 280.34 for USTs described above and located at 10 Bond Street, New York, New York.

406. Defendant 4090 BOSTON ROAD CORPORATION, as owner, failed to maintain records of the operation of cathodic protection as required by 40 C.F.R. §§ 280.31(d) and 280.34 for USTs described above and located at 4090 Boston Road, Bronx, New York.

407. Defendant 4090 N.Y. CORPORATION, as owner and/or operator, failed to maintain records of the operation of cathodic protection as required by 40 C.F.R. §§ 280.31(d) and 280.34 for USTs described above and located at 4090 Boston Road, Bronx, New York.

408. Defendant CONNOR GAS N.Y. INC., as owner and/or operator, failed to maintain records of the operation of cathodic protection as required by 40 C.F.R. §§ 280.31(d) and 280.34 for USTs described above and located at 4090 Boston Road, Bronx, New York.

409. Defendant LEGGETT LAND LIMITED, as owner, failed to maintain records of the operation of cathodic protection as required by 40 C.F.R. §§ 280.31(d) and 280.34 for USTs described above and located at 1081 Leggett Avenue, Bronx, New York.

410. Defendant 1081 N.Y. CORPORATION, as owner and/or operator, failed to maintain records of the operation of cathodic protection as required by 40 C.F.R. §§ 280.31(d) and 280.34 for USTs described above and located at 1081 Leggett Avenue, Bronx, New York.

411. Defendant TIJUANA ENTERPRISES, as owner, failed to maintain records of the operation of cathodic protection as required by 40 C.F.R. §§ 280.31(d) and 280.34 for USTs described above and located at 1508 Bushwick Avenue, Brooklyn, New York.

412. Defendant 2800 BRUCKNER BOULEVARD LLC, as owner, failed to maintain records of the operation of cathodic protection as required by 40 C.F.R. §§ 280.31(d) and 280.34 for USTs described above and located at 2800 Bruckner Boulevard, Bronx, New York.

413. Defendant E.D. FUELS LLC, as owner and/or operator, failed to maintain records of the operation of cathodic protection as required by 40 C.F.R. §§ 280.31(d) and 280.34 for USTs described above and located at 2800 Bruckner Boulevard, Bronx, New York.

414. Defendant QUINCY GAS N.Y., INC., as owner and/or operator, failed to maintain records of the operation of cathodic protection as required by 40 C.F.R. §§ 280.31(d) and 280.34 for USTs described above and located at 2800 Bruckner Boulevard, Bronx, New York.

415. Defendant ENKIDO GASOLINE CORP., as owner, failed to maintain records of the operation of cathodic protection as required by 40 C.F.R. §§ 280.31(d) and 280.34 for USTs described above and located at 2800 Bruckner Boulevard, Bronx, New York.

416. Defendant SIDNEY ESIKOFF FAMILY TRUST, as owner, failed to maintain records of the operation of cathodic protection as required by 40 C.F.R. §§ 280.31(d) and 280.34 for USTs described above and located at 141-50 Union Turnpike, Queens, New York.

417. Defendant 141-50 UNION TURNPIKE LLC, as owner, failed

to maintain records of the operation of cathodic protection as required by 40 C.F.R. §§ 280.31(d) and 280.34 for USTs described above and located at 141-50 Union Turnpike, Queens, New York.

418. Defendant SATIN VENTURES INC., as owner and/or operator, failed to maintain records of the operation of cathodic protection as required by 40 C.F.R. §§ 280.31(d) and 280.34 for USTs described above and located at 141-50 Union Turnpike, Queens, New York, and 2800 Bruckner Boulevard, Bronx, New York.

419. Defendant 83-10 ASTORIA BOULEVARD LLC, as owner, failed to maintain records of the operation of cathodic protection as required by 40 C.F.R. §§ 280.31(d) and 280.34 for USTs described above and located at 83-10 Astoria Boulevard, Queens, New York.

420. Defendant EDEN EQUITIES INC., as owner and/or operator, failed to maintain records of the operation of cathodic protection as required by 40 C.F.R. §§ 280.31(d) and 280.34 for USTs described above and located at 83-10 Astoria Boulevard, Queens, New York.

421. Defendant SLINGSHOT GASOLINE, INC., as owner and/or operator, failed to maintain records of the operation of cathodic protection as required by 40 C.F.R. §§ 280.31(d) and 280.34 for USTs described above and located at 141-50 Union Turnpike, Queens, New York.

422. Defendant PENN-FULTON MANAGEMENT, INC., as owner,

failed to maintain records of the operation of cathodic protection as required by 40 C.F.R. §§ 280.31(d) and 280.34 for USTs described above and located at 2642-66 Fulton Street, Brooklyn, New York.

423. Defendant FULTON GAS N.Y., INC., as owner and/or operator, failed to maintain records of the operation of cathodic protection as required by 40 C.F.R. §§ 280.31(d) and 280.34 for USTs described above and located at 2642-66 Fulton Street, Brooklyn, New York.

424. Defendant FLUSHING 168 CORP., as owner and/or operator, failed to maintain records of the operation of cathodic protection as required by 40 C.F.R. §§ 280.31(d) and 280.34 for USTs described above and located at 2642-66 Fulton Street, Brooklyn, New York.

425. Defendant 1981 N.Y. CORP., as owner, failed to maintain records of the operation of cathodic protection as required by 40 C.F.R. §§ 280.31(d) and 280.34 for USTs described above and located at 2642-66 Fulton Street, Brooklyn, New York.

426. Pursuant to section 9006(a) and (d) of RCRA, 42 U.S.C. § 6991e(a) and (d), defendants CITYGAS GASOLINE CORPORATION; FOSTER REALTY CORPORATION; FOSTER OPERATING CORPORATION; 14TH AVENUE REALTY CORPORATION; 10 B. STREET REALTY CORPORATION; GARY'S AUTO SERVICE STATION, INC.; 4090 BOSTON ROAD CORPORATION;

CONNOR GAS N.Y. INC.; 4090 N.Y. CORPORATION; LEGGETT LAND LIMITED; 1081 N.Y. CORPORATION; TIJUANA ENTERPRISES, INC.; 2800 BRUCKNER BOULEVARD LLC; E.D. FUELS, LLC; QUINCY GAS N.Y., INC.; ENKIDO GASOLINE CORPORATION; SIDNEY ESIKOFF FAMILY TRUST; 141-50 UNION TURNPIKE LLC; SATIN VENTURES INC.; 83-10 ASTORIA BOULEVARD LLC; EDEN EQUITIES INC.; SLINGSHOT GASOLINE, INC.; PENN-FULTON MANAGEMENT, INC., FULTON GAS N.Y., INC., FLUSHING 168 CORP.; and 1981 N.Y. CORPORATION are subject to injunctive relief and are liable for civil penalties based upon the seventh claim for relief.

EIGHTH CLAIM FOR RELIEF

Failure to Respond to Section 9005 Requests for Information Regarding UST Systems

427. Paragraphs 1 through 425 are realleged and incorporated herein by reference.

428. Defendants CITYGAS GASOLINE CORPORATION and RICHARD FINKELSTEIN failed to respond to requests for information regarding UST systems under their ownership or control as required by 40 C.F.R. § 280.34 and Section 9005 of RCRA.

429. Pursuant to section 9006(a) and (d) of RCRA, 42 U.S.C. § 6991e(a) and (d), defendants CITYGAS GASOLINE CORPORATION and RICHARD FINKELSTEIN and are subject to injunctive relief and are liable for civil penalties based upon the eighth claim for relief.

PRAYER FOR RELIEF

WHEREFORE, plaintiff, the United States of America respectfully prays that this Court grant the following relief:

1. Enjoin the defendants to comply with all applicable requirements for subtitle I of RCRA, 42 U.S.C. § 6991 et seq., and its implementing regulations;

2. With respect to each day of each violation of RCRA and its implementing regulations at each facility set forth under each claim for relief set forth in this Complaint, order defendants to pay a civil penalty, in an amount up to \$11,000 per tank for each day of violation; and

3. Award plaintiff the costs of this action, and such further relief as this Court may deem appropriate.

CATHERINE R. McCABE
Deputy Section Chief
Environmental Enforcement Section
Environment and Natural Resources
Division
U.S. Department of Justice
1425 New York Avenue, N.W.
Washington, D.C. 20005

Dated: Brooklyn, New York
June __, 2005

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